

Extra Ordinary Part - V / 2001

Extra No.	Date	Department
Extra No.1	16-03-2001	Legislative & Parliamentary Affairs Department
Extra No.2	16-03-2001	Legislative & Parliamentary Affairs Department
Extra No.3	16-03-2001	Legislative & Parliamentary Affairs Department
Extra No.4	16-03-2001	Legislative & Parliamentary Affairs Department
Extra No.5	16-03-2001	Legislative & Parliamentary Affairs Department
Extra No.6	16-03-2001	Legislative & Parliamentary Affairs Department
Extra No.7	16-03-2001	Legislative & Parliamentary Affairs Department
Extra No.8	21-03-2001	Legislative & Parliamentary Affairs Department
Extra No.9	23-03-2001	Gujarat Legislature Secretariat
Extra No.10	28-03-2001	Legislative & Parliamentary Affairs Department
Extra No.11	28-03-2001	Legislative & Parliamentary Affairs Department
Extra No.12	28-03-2001	Legislative & Parliamentary Affairs Department
Extra No.13	28-03-2001	Legislative & Parliamentary Affairs Department
Extra No.14	20-07-2001	Legislative & Parliamentary Affairs Department
Extra No.15	20-07-2001	Legislative & Parliamentary Affairs Department
Extra No.16	24-07-2001	Legislative & Parliamentary Affairs Department
Extra No.17	24-07-2001	Legislative & Parliamentary Affairs Department
Extra No.18	24-07-2001	Legislative & Parliamentary Affairs Department
Extra No.19	24-07-2001	Legislative & Parliamentary Affairs Department
Extra No.20	27-07-2001	Gujarat Legislature Secretariat
Extra No.21	27-07-2001	Gujarat Legislature Secretariat
Extra No.22	27-07-2001	Gujarat Legislature Secretariat
Extra No.23	27-07-2001	Gujarat Legislature Secretariat
Extra No.24	27-07-2001	Gujarat Legislature Secretariat
Extra No.25	27-07-2001	Gujarat Legislature Secretariat
Extra No.26	27-07-2001	Gujarat Legislature Secretariat
Extra No.27	06-08-2001	Legislative & Parliamentary Affairs Department

Extra No.	Date	Department
Extra No.28	20-08-2001	Legislative & Parliamentary Affairs Department
Extra No.29	23-08-2001	Legislative & Parliamentary Affairs Department
Extra No.30	23-08-2001	Legislative & Parliamentary Affairs Department
Extra No.31	23-08-2001	Gujarat Legislature Secretariat
Extra No.32	24-08-2001	Legislative & Parliamentary Affairs Department
Extra No.33	24-08-2001	Legislative & Parliamentary Affairs Department
Extra No.34	27-08-2001	Legislative & Parliamentary Affairs Department
Extra No.35	27-08-2001	Legislative & Parliamentary Affairs Department
Extra No.36	28-08-2001	Legislative & Parliamentary Affairs Department
Extra No.37	30-08-2001	Legislative & Parliamentary Affairs Department



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of the publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :--

THE GUJARAT DEVELOPMENT CORPORATIONS LAWS (AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 1 OF 2001.

A BILL

further to amend the Gujarat Tribal Development Corporation Act, 1972, the Gujarat Scheduled Castes Development Corporation Act, 1985 and the Gujarat Backward Classes Development Corporation Act, 1985.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Development Corporations Laws (Amendment) Act, 2001. Short title and commencement.
- (2) It shall be deemed to have come into force on the 26th December, 2000.

Guj. 5 of
1972.

2. In the Gujarat Tribal Development Corporation Act, 1972, in section 5, in sub-section (1), for the words "twenty crores of rupees" occurring at three places, the words "fifty crores of rupees" shall be substituted. Amendment of section 5 of Guj. 5 of 1972.

Amendment of section 17 of Guj. 10 of 1985. 3. In the Gujarat Scheduled Castes Development Corporation Act, 1985, in section 17, in sub-section (1), for the words "ten crores of rupees" occurring at three places, the words "fifty crores of rupees" shall be substituted. **Guj. 10 of 1985.**

Amendment of section 18 of Guj. 11 of 1985. 4. In the Gujarat Backward Classes Development Corporation Act, 1985, in section 18, in sub-section (1), for the words "fifteen crores of rupees" occurring at three places, the words "fifty crores of rupees" shall be substituted. **Guj. 11 of 1985.**

Repeal and savings. 5. (1) The Gujarat Development Corporations Laws (Amendment) Ordinance, 2000 is hereby repealed. **Guj. Ord. 8 of 2000.**

(2) Notwithstanding such repeal, anything done or any action taken under the Gujarat Tribal Development Corporation Act, 1972, the Gujarat Scheduled Castes Development Corporation Act, 1985 and the Gujarat Backward Classes Development Corporation Act, 1985, as amended by the said Ordinance shall be deemed to have been done or taken under the said Acts, as amended by this Act. **Guj. 5 of 1972. Guj. 10 of 1985. Guj. 11 of 1985.**

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 5 of the Gujarat Tribal Development Corporation Act, 1972 empowers the State Government to provide to the Corporation, a sum not exceeding twenty crores of rupees, as capital. Similarly, sub-section (1) of section 17 of the Gujarat Scheduled Castes Development Corporation Act, 1985 empowers the State Government to provide to the Corporation, a sum not exceeding ten crores of rupees and sub-section (1) of section 18 of the Gujarat Backward Classes Development Corporation Act, 1985 empowers the State Government to provide to the Corporation, a sum not exceeding fifteen crores of rupees. In order to enable the State Government to provide, whenever necessary, larger sum of capital to the aforesaid Corporations, it was considered necessary to increase the said ceiling of the capital of all three Corporations to fifty crores of rupees.

For this purpose, a Bill called the Gujarat Development Corporations Laws (Amendment) Bill, 2000 was published with a view to introducing it in the last session of the Gujarat Legislative Assembly but could not be taken up by the House for want of time. Therefore, as the Gujarat Legislative Assembly was not in session, the Gujarat Development Corporations Laws (Amendment) Ordinance, 2000 was promulgated to amend the said Acts to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

FAKIRBHAI VAGHELA.

FINANCIAL MEMORANDUM

Clauses 2, 3 and 4 of the Bill, which seek to amend sub-section (1) of section 5 of the Gujarat Tribal Development Corporation Act, 1972, sub-section (1) of section 17 of the Gujarat Scheduled Castes Development Corporation Act, 1985 and sub-section (1) of section 18 of the Gujarat Backward Classes Development Corporation Act, 1985, respectively empower the State Government to provide to the respective Corporation, whenever necessary, a sum not exceeding fifty crores of rupees as the State Government may think fit, as capital of the Corporation. The Bill, if enacted and brought into force, would involve an additional non-recurring expenditure upto rupees thirty crores in the case of Gujarat Tribal Development Corporation, rupees forty crores in the case of Gujarat Scheduled Castes Development Corporation and rupees thirty-five crores in the case of Gujarat Backward Classes Development Corporation, which may be incurred by the State Government from time to time.

Dated the 14th March, 2001.

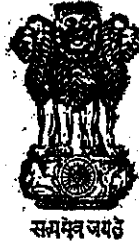
FAKIRBHAI VAGHELA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 16th March, 2001.

Government Central Press, Gandhinagar.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of the publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :—

THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 2 OF 2001.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 2001.

Short title and commencement.

(2) It shall be deemed to have come into force on the 25th October, 2000.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), in section 3A,—

Amendment of section 3A of Bom. LXV of 1958.

(1) in sub-section (1), in the Table, in entry 1,—

(a) against clause (a), for the letters and figures "Rs. 3,000", the letters and figures "Rs. 2,700" shall be substituted;

(b) against clause (b), for the letters and figures "Rs. 4,500", the letters and figures "Rs. 4,050" shall be substituted.

(2) in sub-section (5), —

(A) in clause (a), —

(a) for the words " the Month", the words " each complete month of the period" shall be substituted;

(b) in sub-clause (i), for the words "two hundred fifty rupees", the words "six hundred seventy-five rupees" shall be substituted;

(c) in sub-clause (ii), for the words "three hundred seventy-five rupees", the words "one thousand twelve rupees" shall be substituted;

(d) in sub-clause (iii), for the words "three hundred seventy-five rupees", the words "one thousand one hundred twenty-five rupees" shall be substituted;

(e) in sub-clause (iv), for the words "five hundred rupees", the words "one thousand five hundred rupees" shall be substituted;

(f) in the proviso, for the word "month", the word "months" shall be substituted.

(B) in clause (b), for the portion beginning with the words "period exceeding one month" and ending with the words "the Government authority", the words "continuous period of not less than one month but exceeding three months in a year" shall be substituted.

Repeal and savings.

3.(1) The Bombay Motor Vehicles Tax (Gujarat Amendment) Ordinance, 2000 is hereby repealed.

Guj. Ord. 3 of 2000.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Gujarat High Court in Special Civil Application No. 10356 of 1996 has held that the Bombay Motor Vehicles Tax Act, 1958 does not provide for levy and collection of tax on vehicles which do not use, or are kept for use of the public roads in the State. The High Court has observed that it is the non use that is the crucial fact that entitles the registered owner or the person in possession of vehicle to get refund. The reason for non use is irrelevant. While confirming the said judgement of the High Court, the Supreme Court in Appeal No. 198 of 1999 has observed that what is material and relevant is use of road by vehicle for levy of tax under the Act. The reason for non use of road is immaterial and irrelevant when the nature of tax itself is compensatory for use of road. It was therefore, considered necessary to amend sub-section (5) of section 3A so as to make the provisions in conformity with the observation of the Court.

The rates of tax in respect of ordinary designated omnibuses and the luxury or tourist designated omnibuses were increased with effect from the 1st April, 2000. The tourist vehicle operators have represented to the State Government that the increase in rates of tax causes hardship. In order to remove such hardship and to promote the tourism in the State, it was considered necessary to reduce the annual rate of tax levied on ordinary designated omnibuses by ten per cent. For that purpose sub-section (1) of said section 3A is amended.

As the Gujarat Legislative Assembly was not in session, the Bombay Motor Vehicles Tax (Gujarat Amendment) Ordinance 2000 was promulgated to amend the said Act to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 15th March, 2001.

BIMAL SHAH.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 16th March, 2001.

Government Central Press, Gandhinagar.



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The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY TENANCY AND AGRICULTURAL LANDS (GUJARAT AMENDMENT) AMENDING BILL, 2001.

GUJARAT BILL NO. 3 OF 2001.

A BILL

*further to amend the Bombay Tenancy and Agricultural Lands
(Gujarat Amendment) Act, 1995.*

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Amending Act, 2001.

Short title
and
commencement.

(2) It shall be deemed to have come into force on the 6th November, 2000.

Guj. 4 of
1995.

2. In the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1995 (hereinafter referred to as "the amending Act"), in section 2, for the words "shall be deleted" occurring at two places, the words "shall be and shall be deemed always to have been deleted" shall be substituted.

Amendment
of section 2 of
Guj. 4 of
1995.

Abatement of
legal
proceedings.

3. All proceedings relating to any order made or purported to be made under section 84C of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the principal Act") for contravention of provisions of section 63, so far as it relates to the breach of clause (6) of section 2 of the principal Act, pending before any court, tribunal or other authority or any such proceedings initiated by any such authority on or after the commencement of the amending Act shall stand abated notwithstanding anything contained in section 84C of the principal Act.

Bom.
LXVII
of 1948.

Saving.

4. The amendment made by section 2 shall not affect the validity of any such order referred to in section 3, made by any court, tribunal or other authority before the date of commencement of the amending Act, which has become final.

Explanation.—For the purpose of this section, the word "final" means no appeal, revision or any other proceeding is pending before any court, tribunal or other authority against any such order on the date of commencement of the amending Act.

Repeal
and
savings.

5. (1) The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Amending Ordinance, 2000 is hereby repealed.

Guj.
Ord. 5
of 2000.

(2) Notwithstanding such repeal, anything done or any action taken under the amending Act, as amended by the said Ordinance shall be deemed to have been done or taken under the amending Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The restrictions to hold the agricultural land by distance of more than 5 miles i.e. 8 kilometers or the entire area of land shall form one compact block and the residential requirement for personal supervision for cultivation of land, have been removed by the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1995.

The State Government has received several representations from farmers for withdrawal of the cases pending before any court, tribunal or other authority on the commencement of the said amending Act as they are facing hardships, particularly when the Government has already removed the aforesaid restrictions. In order to remove such hardships, it was considered necessary to amend the said amending Act so as to remove the aforesaid restriction with retrospective effect and to provide that the cases pending before any court, tribunal or other authority for contravention of section 63 so far as it relates to breach of clause (6) of section 2 of the principal Act, shall stand abated. It was also considered necessary to provide that the amendment shall not affect the validity of any such order passed by any court, tribunal or other authority prior to commencement of the amending Act, which has become final.

As the Gujarat Legislative Assembly was not in session, the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Amending Ordinance, 2000 was promulgated to amend the said amending Act to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 16th March, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 16th March, 2001.

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The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :--

THE GUJARAT SALES TAX (AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 4 OF 2001.

A BILL

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :-

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|--|--|
| <p>1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 2001.</p> <p>(2) It shall come into force on the 1st April, 2001.</p> | <p>Short title and commencement.</p> |
| <p>Guj. 1 of 1970. 2. In the Gujarat Sales Tax Act, 1969, in section 4A, in sub-section (1), for the words "one year", the words "two years" shall be substituted.</p> | <p>Amendment of section 4 A of Guj. 1 of 1970.</p> |

STATEMENT OF OBJECTS AND REASONS

Section 4 A was inserted in the Gujarat Sales Tax Act, 1969, with effect from 1st April, 2000 for the purpose of levy of additional tax for a period of one year from 1st April, 2000. Additional tax was introduced for raising revenues to meet with the expenditure on scarcity-relief work and for development work. The said period of levy of additional tax is due to expire on 31st March, 2001.

With a view to meeting with the expenditure on natural calamities like earthquake and continued scarcity relief work, it is considered necessary to continue levy of additional tax for a further period of one year i.e. till 31st March, 2002. This Bill seeks to amend the said Act with a view to providing for levy and collection of additional tax for a further period of one year from 1st April, 2001, by amending sub-section (1) of section 4A of the said Act.

Dated the 15th March, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
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The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :--

THE GUJARAT STATE GUARANTEES (AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 5 OF 2001.

A BILL

further to amend the Gujarat State Guarantees Act, 1963.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :-

1. This Act may be called the Gujarat State Guarantees (Amendment) Act, 2001. Short title.

Guj. XXII of
1963.

2. In the Gujarat State Guarantees Act, 1963, (hereinafter referred to as "the principal Act"), in section 2, in sub-section (1), for the letters and figures "Rs. 160,00,00,00,000", the letters and figures "Rs. 200,00,00,00,000" shall be substituted. Amendment of section 2 of Guj. XXII of 1963.

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 2 of the Gujarat State Guarantees Act, 1963 fixes Rs. 160,00,00,00,000 to be the limit upto which the State Government may give guarantees. During the nineties, there has been a phenomenal growth in implicit (contingent) liabilities in the form of guarantees extended by the Government. Guarantees have emerged as an alternative fiscal instrument of the Government to meet with the investment requirements by the State level bodies. With a view to meeting with such guarantees and demand for overall development of the State in the field of power sector, irrigation, industry and infrastructure facilities, it is considered necessary to raise the said limit up to Rs. 200,00,00,00,000/-. This Bill provides accordingly.

Dated the 15th March, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
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The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :--

THE GUJARAT PANCHAYATS (AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 6 OF 2001.

A BILL

further to amend the Gujarat Panchayats Act, 1993.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :-

- | | |
|---|---|
| <p>1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 2001.</p> <p>(2) It shall be deemed to have come into force on the 4th November, 2000.</p> | <p>Short title and commencement.</p> |
| <p>Guj. 18 of 1993. 2. In the Gujarat Panchayats Act, 1993 (hereinafter referred to as the "principal Act"), in section 257, sub-section (2) shall be deleted.</p> | <p>Amendment of section 257 of Guj. 18 of 1993.</p> |

Repeal and savings. 3. (1) The Gujarat Panchayats (Amendment) Ordinance, 2000 is hereby repealed. **Guj. Ord. 4 of 2000.**

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The existing provisions of sub-section (1) of section 257 of the Gujarat Panchayats Act, 1993 empowers the State Government to make declaration, by notification in the *Official Gazette*, to the effect that it is not possible to hold election before the expiry of duration of the panchayat on account of any natural calamity. Sub-section (2) provides that the notification so issued under sub-section (1) shall remain in force for a period not exceeding three months from the date of expiry of duration of the panchayat. Sub-section (3) further provides that on issue of such notification, all the powers and duties of the panchayat shall be exercised and performed, for the period during which the notification under sub-section (1) remains in force, by such officer as the State Government may specify.

The term of more than eight thousand village panchayats has already expired in the month of July, 2000 and the period of three months from the date of the notification issued under sub-section (1) of the said section 257 in respect of those village panchayats is also due to expire very shortly.

Due to failure of monsoon in the last year, the large parts of the State have faced unprecedented drought and the situation has become worst because of failure of monsoon season in the current year. The drought situation has further aggravated and the State has not only to face the scarcity problems but fodder and water problems too. The administrative machinery of the State under the circumstances is required to be geared up to meet with the unprecedented drought. In such natural calamity, holding of election of more than eight thousand village panchayats would render it difficult to cope with the work relating to drought relief and would affect adversely the implementation of such relief works.

Section 7A of the Bombay Provincial Municipal Corporation Act, 1949 empowers the State Government to appoint, by order published in the *Official Gazette*, an Administrator to manage the affairs of the Corporation in a case where, due to unforeseen circumstance such as natural calamity, riots, communal disturbances, the election to constitute Corporation could not be completed before the expiry of its duration.

Similarly, section 8A of the Gujarat Municipalities Act, 1963 empowers the State Government to appoint officer to exercise all the powers and perform the duties of the municipality where it is not possible to hold election to constitute a municipality on account of unforeseen circumstances such as natural calamity, riots, communal disturbances.

None of the aforesaid two Acts provide any such limitation like sub-section (2) of section 257 of the Gujarat Panchayats Act, 1993, while exercising such powers by the State Government for appointment of an Administrator.

In order to make uniformity in the local self-government laws and to meet with certain situations, it was considered necessary to delete sub-section (2) of section 257 of the Gujarat Panchayats Act, 1993.

As the Gujarat Legislative Assembly was not in session, the Gujarat Panchayats (Amendment) Ordinance, 2000 was promulgated to amend the said Act to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 16th March, 2001.

NARAYANBHAI PATEL.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
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The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT GAS (REGULATION OF TRANSMISSION, SUPPLY AND DISTRIBUTION) BILL, 2001.

GUJARAT BILL NO. 7 OF 2001.

A Bill

to provide for regulation of transmission, supply and distribution of gas, in the interests of general public and to promote gas industry in the State and for that purpose to establish Gujarat Gas Regulatory Authority and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Gas (Regulation of Transmission, Supply and Distribution) Act, 2001.
- (2) It extends to the whole of the State of Gujarat.
- (3) This section shall be deemed to have come into force on 19th December, 2000 and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "Authority" means the Gujarat Gas Regulatory Authority established under section 4;
- (b) "bulk consumer" means a person who consumes gas exceeding twenty-five thousand cubic metres per day;
- (c) "Chairperson" means the Chairperson of the Authority;
- (d) "Commissioner" means the Commissioner of Gas appointed under section 3;
- (e) "committee" means the committee constituted under section 11;
- (f) "common carrier" means the basis of arrangements by which an access has to be provided to any person for the transmission and distribution of gas through pipelines;
- (g) "distribution" means distribution of gas at a low pressure by means of pipelines to a consumer other than a bulk consumer;
- (h) "gas" means a matter in gaseous state which predominantly consists of methane;
- (i) "high pressure" means such pressure as the State Government may, from time to time, by notification in the *Official Gazette*, specify in terms of kilograms per square centimeter;
- (j) "licence" means a licence granted under section 26;
- (k) "licensee" means a person holding a licence;
- (l) "low pressure" means such pressure as the State Government may, from time to time, by notification in the *Official Gazette*, specify in terms of kilograms per square centimeter;
- (m) "member" means a member of the Authority and includes the Chairperson;
- (n) "pipeline corridors" means pipelines laid or to be laid together with sufficient adjacent land;
- (o) "prescribed" means prescribed by rules;
- (p) "regulations" means regulations made under this Act;
- (q) "rules" means rules made under this Act;
- (r) "specified company" means such company or companies, the main object of which is the transmission of gas as the State Government may, by notification in the *Official Gazette*, specify;
- (s) "supplier" means a person who supplies gas;
- (t) "supply" means supply of gas by means of pipelines but does not include distribution;
- (u) "transmission" means transmission of gas at a high pressure by means of pipelines; and
- (v) "Tribunal" means the Tribunal constituted under section 30.

CHAPTER II

COMMISSIONER OF GAS

3. (1) The State Government may, by notification in the *Official Gazette*, appoint an officer to be the Commissioner, who shall exercise such powers and perform such functions and duties as are conferred or imposed on him by or under this Act. Commissioner
- (2) The Commissioner shall exercise the powers and perform the functions and duties conferred or imposed on him under this Act, subject to the control of the State Government.
- (3) To assist the Commissioner in exercising his powers and performance of his functions and duties under this Act, the State Government may appoint such officers and persons and give them such designation (if any), as the State Government thinks necessary.

CHAPTER III

ESTABLISHMENT AND CONSTITUTION OF AUTHORITY

4. (1) The State Government shall, by notification in the *Official Gazette*, establish an Authority by the name of the Gujarat Gas Regulatory Authority with effect from such date as may be specified in the notification. Establishment and incorporation of Authority.
- (2) The Authority shall be a body corporate with perpetual succession and common seal and may sue or be sued in its corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold or dispose of property, both movable and immovable, and to contract and do all things necessary for the purposes of this Act.
5. The headquarters of the Authority shall be at Ahmedabad or at such other place as the State Government may, by a notification in the *Official Gazette*, specify. Headquarters of Authority.
6. (1) The Authority shall consist of a Chairperson and two other members to be appointed by the State Government. Constitution of Authority.
- (2) Out of the three members —
- (a) one shall be a person who has special knowledge and professional experience in the field of engineering related to transmission, supply or distribution of gas or designing, laying and operating of pipelines therefor,
 - (b) one shall be a person who has special knowledge and professional experience in the field of administration, economics, commerce, finance, law or management,
 - (c) one shall be a person who possesses qualifications either under clause (a) or (b).
- (3) A member of the Authority shall render whole time service and shall not hold any other office during the tenure of his office.
7. (1) The chairperson and the other members shall hold office for a period of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever period is less. Term of office and conditions of service of members.
- (2) The salary and allowances payable to and other conditions of service of a member shall be such as may be prescribed :

Provided that the salary and allowances and other conditions of service of a member shall not be varied to his disadvantage during the tenure of his office.

Filling up of vacancies. 8.

On occurrence of any vacancy in the office of a member on account of death, resignation or any other reason, the same shall be filled in by the State Government in the manner provided in section 6.

Disqualifications. 9.

A person shall be disqualified for being appointed or being a member of the Authority if, such person—

- (a) is a member of Parliament or of any States Legislature or of any local authority;
- (b) is a member of a political party;
- (c) is, or at any time, has been adjudged an insolvent or has suspended payment of his debts or has compounded with his creditors;
- (d) is of unsound mind and stands so declared by a competent court;
- (e) is, or has been convicted of any offence which, in the opinion of the State Government involves moral turpitude;
- (f) has either directly or indirectly any financial or other interest which is likely to affect prejudicially his functioning as a member; or
- (g) has either directly or indirectly any financial or other interest in —
 - (i) transmission, supply or distribution of gas;
 - (ii) production, sale or supply of gas whether used in any industry or not;
 - (iii) manufacture of, or any dealings in, plant and machinery, equipments, apparatus, or fittings for the matters specified in sub-clause (i), or
 - (iv) any body which provides professional services in relation to matters specified in sub-clauses (i), (ii) and (iii).

Removal and resignation of member. 10.

(1) Notwithstanding anything contained in sub-section (1) of section 7, the State Government may, at any time, remove any member from office, if, in its opinion, such member—

- (a) is or has become, subject to any of the disqualifications mentioned in section 9,
- (b) has been guilty of misconduct in discharge of his duties,
- (c) has become physically or mentally incapable of discharging his duties as a member,
- (d) has so abused his position as to render his continuance in office prejudicial to public interest, or
- (e) has without reasonable cause refused or failed to perform his duties for a period of not less than three months:

Provided that no member shall be removed from his office—

- (i) on the ground specified in clause (f) or (g) of section 9 or clause (b), (c) or (d) of sub-section (1), unless the committee on a reference made to it in this behalf by

the State Government, has after an inquiry including an opportunity of being heard to the member, reported that the member is liable to be removed on such ground;

- (ii) on any other ground, unless an opportunity of being heard is given to the member.
 - (2) A member in respect of whom a reference has been made under clause (i) of the proviso to sub-section (1) shall not perform his functions as a member until the State Government removes the member from his office or decides not to remove the member from his office, on receipt of the report of the Committee on such reference.
 - (3) A member may resign from his office by giving notice in writing, for such period as may be prescribed, to the State Government, and on such resignation being accepted by the State Government, he shall be deemed to have vacated his office.
11. (1) For the purpose of section 10, the State Government may, by notification in the *Official Gazette*, constitute a committee consisting of not less than three members who shall be officers of a rank not below that of a Secretary to the State Government to be nominated by the State Government, *ex-officio*.
- (2) The member who is senior most in service shall be the Chairman of the committee.
 - (3) The committee shall follow such procedure for disposal of its business as may be prescribed.

Committee
for inquiry.

12. A person who ceases to be a member shall not —
- (a) be entitled to appear for a period of three years in any proceedings before the Authority as a representative of any person from the date of such cesser;
 - (b) acquire either directly or indirectly any financial or other interest of the nature specified in clause (g) of section 9 for a period of two years from the date of such cesser;
 - (c) accept employment in a company or its subsidiary, which carries on the business of transmission or distribution, for a period of three years from the date of such cesser.

Prohibition of
appearance
before
Authority etc.
on ceasing to
be a member.

Explanation. — For the purpose of this clause, the expression 'company' shall have the same meaning as assigned to it in clause (a) of Explanation to section 36.

13. (1) The Authority shall meet at such time and such place and shall, subject to sub-sections (2) and (3), observe such rules of procedure in regard to transaction of its business at its meetings (including the quorum at such meetings) as may be provided by the regulations.
- (2) If the Chairperson is for any reason unable to attend a meeting of the Authority, the other member shall preside at the meeting.
 - (3) All the questions at a meeting of the Authority shall be decided by a majority of the members present and voting, and in case of an equality of votes, the Chairperson or in his absence, the person presiding, shall have and exercise a second or casting vote.

Meetings of
Authority.

Officers and
employees of
Authority.

14. (1) The Authority may, with the approval of the State Government, determine such number and category of officers and employees as it considers necessary for the efficient performance of its functions.
- (2) The manner of recruitment of, the salary and allowances payable to, and other conditions of service of officers and employees, shall be such as may be determined by the regulations.

Consultants.

15. The Authority may, for the purpose of enabling it to perform its functions, appoint consultants on such terms and conditions as may be determined by the regulations.

Acts and
proceedings
presumed to
be valid.

16. (1) No act or proceeding of the Authority shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect, in the constitution of the Authority.
- (2) No act done by any person acting in good faith as a member shall be deemed to be invalid merely on the ground that he was disqualified to be a member or that there was any other defect in his appointment.

CHAPTER IV

FUNCTIONS AND POWERS OF AUTHORITY

Functions of
Authority.

17. Subject to the provisions of this Act, the Authority shall perform the following functions, namely :—

- (a) to regulate transmission, supply and distribution of gas in the State and laying of pipelines therefor,
- (b) to promote gas industry in the State in accordance with the direction given by the State Government,
- (c) to give direction to a licensee for ensuring compliance of terms and conditions of a licence held by him,
- (d) to regulate the charges for transmission,
- (e) to promote efficiency, economy and safety in the use of gas in the State,
- (f) to give direction to a supplier or bulk consumer for ensuring compliance by him of the standards of safety, operation and environment for supply or bulk consumption of gas,
- (g) to set and enforce standards of safety, operation and environment for transmission, supply and distribution and bulk consumption of gas,
- (h) to lay down by regulations the principles of common carrier for transmission and distribution and to enforce the same,
- (i) to adjudicate upon the disputes and difference amongst licensees and a suppliers, or between the specified company and a licensee or a supplier or between a supplier and a person who buys gas from supplier and to refer matters for arbitration if considered necessary, in accordance with the provisions of this Act,
- (j) to hold, wherever necessary, an inquiry in accordance with such procedure as may be prescribed,

- (k) to advise the State Government on matters relating to transmission, supply and distribution of gas in the State, and
- (l) to perform such other functions as may be prescribed or as are supplemental, incidental or consequential to any of the functions entrusted to it by or under this Act.

18. (1) The Authority shall, for the purposes of any inquiry under this Act, have the powers of a civil court while trying a suit, in respect of the following matters, namely :-- Powers of Authority.

- (a) summoning and enforcing the attendance of any witness and examining him on oath,
- (b) requiring the discovery and production of any document or other material object producible as evidence,
- (c) receiving of evidence on affidavits,
- (d) requisitioning of any public record or a copy thereof from any court or office,
- (e) issuing commissions for examination of witnesses or documents,
- (f) reviewing of its decisions, directions and orders, and
- (g) any other matter which may be prescribed.

(2) The Authority shall have powers to pass such interim order in any matter before it, as it may consider appropriate.

(3) Where the Authority is of opinion that it is necessary so to do for the purposes of this Act, it may require by an order in writing to a specified company or any person—

- (a) to produce before, or to allow to be examined by, an officer specified in the said order such books, accounts or other documents in the custody or control of that company or person, relating to any matter concerning the transmission, supply or distribution or laying of pipelines therefor as may be specified in the order, and
- (b) to furnish to the officer specified in the order such information in its or his possession, power or control as may be specified in the order.

(4) The Authority may require a specified company or any person —

- (a) to produce before or to allow to be examined by an officer of the Authority authorised by it in this behalf, such books, accounts or other documents relating to the functioning of the company engaged in transmission of gas or of any undertaking engaged in supply, distribution or use of gas, in the custody or under the control of such company or person,
- (b) to furnish to the authorised officer such information in the possession, power or control of such company or person for the purposes of performance of the functions by the Authority.

(5) Where during any inquiry or proceeding under this Act, the Authority has reason to believe that any books or accounts or documents of or relating to the specified company engaged in transmission of gas or any person engaged in supply, distribution or use of gas in relation

to which or whom such inquiry is made or proceedings are undertaken are being or may be destroyed, mutilated, altered, falsified or secreted, the Authority may by written order authorise any officer of the Authority to enter and search any place of business of the company or person or any other place where the Authority has reason to believe that the company or person keeps or is for the time being keeping books or accounts or documents and to seize the same and after granting a receipt therefor retain the same for such period so long as is necessary in connection with such inquiry or proceeding.

- (6) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall apply, so far as may be, to the searches and seizures made under sub-section (5). 2 of 1974.
- (7) The Authority may, by a general or special order call upon a specified company or any person to furnish to the Authority periodically or, as and when required, any information concerning its or his activities related to transmission, supply, distribution of gas or laying of pipelines therefor or use of gas.
- (8) The Authority may, for the purpose of placing gas pipelines, appliances and apparatus, by an order, confer—
- (i) upon a specified company for transmission, and
 - (ii) upon a licensee or any other person for supply and distribution,
- any of the powers which the telegraph authority possesses under the Indian Telegraph Act, 1885 with respect to placing of telegraph lines and posts subject to such conditions as the Authority may specify in such order. 13 of 1885.

CHAPTER V

FINANCE, ACCOUNTS, AUDIT AND REPORTS

Fund of
Authority.

19. (1) The Authority shall have its own fund and all receipts of the Authority shall be carried thereto and all payments by the Authority shall be made therefrom.

(2) The Authority may accept grants and subventions from the State Government or a local authority for the purposes of this Act.

(3) The Authority may spend such sums as it thinks fit for the performance of its functions under this Act and such sums shall be treated as expenditure payable out of the Fund of the Authority.

(4) All moneys belonging to the Fund of the Authority shall be deposited in such bank or invested in Government securities or in such other manner, as the State Government may, by general or special order, direct.

Budget of
Authority.

20. The Authority shall prepare, in such form and at such time in each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the State Government.

Accounts
and audit of
Authority.

21. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed, in consultation with the Comptroller and Auditor-General of India.

- (2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.
- (3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.
- (4) The accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the Authority and the State Government shall cause the audit report to be laid, as soon as may be, after it is received, before the State Legislature.
22. (1) The Authority shall prepare once in every year in such form and at such time, as may be prescribed, an annual report including a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government.
- (2) A copy of the report received under sub-section (1) shall be laid, as soon as may be, after it is received, before the State Legislature.

Annual
report of
Authority.

CHAPTER VI

TRANSMISSION OF GAS

23. (1) (a) No person other than a specified company and a person referred to in sub-section (1) of section 55 shall carry on the business of transmission in the State.
- (b) Subject to the rules, if any, a specified company shall carry on the business of transmission in the State.
- (2) Without prejudice to the generality of the provision contained in sub-section (1), but subject to the other provisions of this Act, a specified company shall,—
- (a) establish or cause to be established a transmission system (which shall include laying of pipelines) for conveyance of gas on the principle of common carrier and operate or cause to be operated the same,
- (b) determine transmission charges,
- (c) plan and develop pipeline corridors for transmission system in the State, and
- (d) maintain such standards of efficiency, economy and safety in relation to its business of transmission as laid down by the Authority.

Specified
company to
transmit gas
in State.

Specified
company
only to
carry on
business of
transmission
of gas.

24. Except to the extent otherwise expressly provided in sub-section (1) of section 55, on and with effect from the date of coming into force the remaining provisions of this Act, the specified company only shall carry on the business of transmission in the State.

CHAPTER VII

LICENSING OF DISTRIBUTION OF GAS

Prohibition
on
distribution
without
licence.

25. (1) No person shall carry on business of distribution in the State, except under a licence granted under this Act.
(2) No person shall lay pipelines for distribution in the State unless he is a licensee.

Grant of
licence.

26. (1) (a) A person may make an application to the Commissioner for grant of a licence for carrying on the business of distribution.
(b) A person carrying on the business of distribution on the date of coming into force the remaining provisions of this Act (hereinafter referred to 'as the said date') shall, within three months from the said date, make an application to the Commissioner for grant of a licence for carrying on the business of distribution, and

(i) a person who makes such an application shall be deemed to have been authorised to carry on such business from the said date till the date on which he is either granted or refused a licence,

(ii) a person who does not make such application within the said period of three months shall be deemed to be carrying on business of distribution without a licence.

- (2) Every application under sub-section (1) shall be made in such form, and shall contain such particulars; including those regarding the competency of the applicant to undertake the business of distribution and accompanied by such fees, as may be prescribed.
(3) The Commissioner may grant a licence to the applicant in such form containing such terms and conditions and on payment of such fees, as may be prescribed.
(4) For the purpose of granting a licence under sub-section (3), the Commissioner shall, so far as may be, follow the procedure of public competitive bidding laid down in the Gujarat Infrastructure Development Act, 1999.
(5) Unless it is specifically provided in the terms of a licence, the grant of a licence to a person shall not in anyway hinder or restrict the power of the Commissioner to grant a licence to another person in respect of the same area of distribution and the licensee shall not be entitled to claim any exclusivity.

Guj. 11 of
1999.

27. Where in its opinion, the public interest so requires, the State Government may on the application of a licensee, direct the Commissioner to make such amendments in the terms and conditions of a licence as it thinks fit having regard to the objects and purposes of this Act and the Commissioner shall make amendments in the licence accordingly. Amendment of licence.
28. If the Commissioner is satisfied either on a reference made to it or otherwise that— Revocation and suspension of licence.
- (a) a licence granted under section 26 has been obtained by misrepresentation as to an essential fact, or
 - (b) the licensee has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules or the regulations made thereunder, then without prejudice to any other penalty to which the licensee may be liable under this Act, the Commissioner may, after giving the licensee an opportunity of showing cause—
 - (i) revoke the licence on the ground stated in clause (a), or
 - (ii) revoke the licence or forfeit the sum, if any, or any portion thereof deposited as security for due performance of the conditions subject to which the licence has been granted, on the ground stated in clause (b), or
 - (iii) suspend the licence for such period as he thinks fit, on the ground stated in clause (b).

CHAPTER VIII

ARBITRATION AND APPEALS

29. (1) (a) Any dispute arising between a specified company and a licensee or between licensees or between a person who supplies gas and a person who buys gas from him, shall be referred to the Authority. Arbitration by Authority.
- (b) The Authority may adjudicate the matter or nominate a person to adjudicate and settle such dispute.
 - (c) The procedure to be followed in connection with such adjudication shall be such as may be prescribed by the regulations.
- (2) Where an adjudication is made by the nominee appointed by the Authority, it shall be filed before the Authority and the Authority shall pass such order as deemed fit including an order—
- (a) confirming and enforcing the adjudication,
 - (b) setting aside or modifying the adjudication, or
 - (c) remitting the adjudication to the nominee for reconsideration.
- (3) The adjudication made by the Authority under sub-section (1) or an order passed by the Authority under sub-section (2) shall be enforceable as if it were a decree of a civil court.
- (4) The Authority or, as the case may be, a nominee may, at any time before the commencement or during the pendency of proceedings under sub-section (1), make such interim order as the Authority or, as the case may be, the nominee deems fit.

Constitution of Tribunal.

30. (1) The State Government shall constitute a Tribunal to be called the Gujarat Gas Tribunal to discharge the functions conferred on the Tribunal by or under this Act.

(2) The Tribunal shall consist of two members who shall be appointed by the State Government, out of whom—

(a) one shall be a person who is or has been a Judge of the High Court, and

(b) one shall be a person who is or has held the post not below the rank of the Secretary to the State Government.

(3) The term of office and conditions of service of the members of the Tribunal shall be such as may be prescribed.

(4) The State Government may terminate the appointment of the member of the Tribunal before the expiry of the term of his office if such member,—

(a) is adjudged an insolvent, or

(b) engages during his term of office in any paid employment outside the duties of his office, or

(c) is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the State Government or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member, or

(d) is in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body, or

(e) is convicted of an offence involving moral turpitude.

(5) Subject to such conditions and limitations as may be prescribed, the Tribunal shall have power to award cost and the amount of such costs shall be recoverable from the person ordered to pay the same as arrears of land revenue.

(6) Subject to the previous sanction of the State Government, the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which the Tribunal shall sit) and the disposal of its business, make regulations consistent with the provisions of this Act and rules made thereunder.

(7) The regulations made under sub-section (6) shall be published in the *Official Gazette*.

Powers of Tribunal.

31. (1) For the purpose of exercising its jurisdiction under this Act, the Tribunal shall have the same powers as are vested in the civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) issuing commissions for the examination of witnesses;

(d) such other matters as may be prescribed.

(2) The Tribunal shall be deemed to be a court for the purpose of section 5 of the Limitation Act, 1963.

5 of 1908.

XXXVI of
1963.

XXXVI of
1963.Bom.
XXXVI
of 1959.

32. (1) An appeal shall lie to the Tribunal against the following orders and award, namely: —
- (a) an order refusing to grant a licence under section 26,
 - (b) an order revoking or suspending a licence or forfeiting the sum of deposit under section 28,
 - (c) an award made by the Authority under sub-section (1) or an order passed by the Authority under sub-section (2) of section 29.
- (2) No appeal shall be entertained unless it is filed within a period of sixty days from the date of communication of the order or award.
- (3) The Tribunal may admit an appeal after the period of limitation specified in sub-section (2), if the appellant satisfies the Tribunal that he had sufficient cause for not filing appeal within such period.
- (4) In computing the period of limitation, the provisions of sections 4 and 12 of the Limitation Act, 1963 shall, so far as may be, apply.
- (5) Notwithstanding anything contained in the Bombay Court Fees Act, 1959, an appeal under this section shall bear a court fee stamp of such value as may be prescribed.

Appeals.

33. (1) No civil court shall have jurisdiction to deal with or decide any question which the State Government, the Authority or any officer appointed by the Authority or the Commissioner or the Tribunal is empowered to deal with or decide by or under this Act.
- (2) No order passed under this Act or any rules or regulations made thereunder by the State Government, the Authority or any officer appointed by the Authority, the Commissioner or by the Tribunal, shall be called in question in any civil court.

Bar of
jurisdiction
of civil
court.

CHAPTER IX

OFFENCES AND PENALTIES

34. (1) Whoever carries on business of transmission in contravention of clause (a) of sub-section (1) of section 23 or of clause (a) or (b) of sub-section (2) of section 55, or
- (2) Whoever carries on business of distribution or lays pipelines for such distribution without a licence in contravention of section 25, shall on conviction, be punished with imprisonment which may extend to six months or with fine not exceeding five lakhs of rupees or with both and in the case of a continuing offence with an additional fine not exceeding twenty thousand rupees for every day after the first, during which the offence continues.
35. Where a licensee, supplier, bulk consumer or any other person fails without any reasonable cause, to comply with any order, direction or requisition lawfully made or given under any provision of this Act or any rules or regulations made thereunder, he shall, on conviction be punished with imprisonment which may extend to three months or with fine not exceeding two lakhs of rupees or with both and in the case of a continuing offence with an additional fine not exceeding ten thousand rupees for everyday after the first, during which the offence continues.

Penalty for
contraven-
tion of
provisions of
sections 23,
25 and 55.General
penalty.

Offences by
companies.

36. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation — For the purposes of this section —

- (a) "company" means a body corporate and includes a firm or other association of individuals ; and
(b) "director" in relation to a firm, means a partner in the firm.

Cognisance
of offences.

37. (1) No court shall take cognisance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by an officer of the Authority generally or specially authorised by it in this behalf.

- (2) Notwithstanding anything contained in section 200 of the Code of Criminal Procedure, 1973, it shall not be necessary to examine the authorised officer of the Authority when cognisance of an offence is taken on a report of such officer under sub-section (1).

2 of 1974.

Jurisdiction
of court.

38. No court inferior to that of a Metropolitan Magistrate or a Magistrate of the First Class shall try an offence punishable under this Act.

Compounding
of offences.

39. (1) The Commissioner may, either before or after the institution of proceeding for any offence punishable under section 34 or 35 or under any rules or regulations accept from any person charged with such offence by way of composition of the offence, a sum not exceeding the maximum penalty of fine with which the offence is punishable.
- (2) On payment of such sum, as may be determined by the Commissioner under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence.

CHAPTER X

MISCELLANEOUS

40. (1) The Authority may, in consultation with the specified company and licensees and, if deemed fit, with such other persons as it thinks necessary, by an order —
- Standards of performance.
- (a) lay down—
- (i) such standards of overall performance in connection with transmission and distribution as in its opinion is necessary for a specified company or, as the case may be, a licensee to achieve,
- (ii) such standards in connection with efficient use of gas by consumers as in its opinion are necessary,
- (b) prescribe operation codes including network code to be complied with by a specified company, licensees and suppliers,
- (c) prescribe safety regulations for operation of transmission system and distribution system and use of gas.
- (2) The order made under sub-section (1) shall be published in such manner as the Authority thinks fit.
41. The Authority may in consultation with licensees and if deemed fit, with such other persons as it thinks necessary, prescribe by regulations the circumstances in which the licensees shall inform the consumers of gas of their rights in relation to distribution to them and compensation to be paid by the licensees to the consumers for any delay or default committed by the licensees in distribution to consumers.
- Information on standards of performance.
42. (1) The Authority may, from time to time, collect information with respect to—
- Information with respect to level of performance.
- (a) the fines or penalties levied on licensees under this Act, and
- (b) the levels of performance achieved by a specified company in connection with the transmission and by the licensees in connection with distribution and efficient use of gas by consumers.
- (2) For the purposes of sub-section (1), each licensee shall, on or before such date in each year as may be specified by the Authority in a direction issued in that behalf, furnish to the Authority, the following information with respect to each standard laid down under clause (a) of sub-section (1) of section 40, namely:—
- (a) the number of cases in which penalties are levied and the aggregate value thereof, and
- (b) such information regarding the level of performance achieved by a licensee as required by the direction.
- (3) The Authority may, not less than once in every year, publish in such form and in such manner as it may deem fit, such of the information collected by it or furnished to it under this section.

- Information relating to financial matters.** 43. (1) The Authority may by notice in newspapers or in such other manner as in its opinion best calculated, call upon all persons carrying on the business of transmission, distribution or supply, or any class of them, to furnish such information or returns as may be stated therein relating to their financial matters.
- (2) The form in which the information or returns shall be furnished, the particulars which they shall contain and intervals at which they shall be furnished, shall be such as may be prescribed by the regulations.
- Restriction on disclosure of information.** 44. (1) Subject to the provisions of this Act, no information relating to business of transmission, supply or distribution of gas carried on by any person shall be disclosed by the Authority without the consent of the person so long as the business is carried on, if such information—
- (a) is obtained by the Authority by or under this Act, and
- (b) is confidential in nature.
- (2) The restriction imposed by sub-section (1) shall not apply to the disclosure of information—
- (a) in any suit, prosecution or other legal proceeding,
- (b) for the purpose of the State,
- (c) before any authority established by law,
- (d) in public interest, or
- (e) in the annual report referred to in section 22.
- Recovery of fees, fines and charges.** 45. The fees, fines, charges and such other sums due to the Authority under this Act shall be recoverable as arrears of land revenue.
- Application of fines and charges.** 46. The Authority imposing fine under this Act may direct that the whole or any part thereof shall be applied towards payment of the costs of the proceedings.
- Proceedings before Authority and Tribunal.** 47. All proceedings before the Authority and the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code. XLV of 1860.
- Members, officers and employees of Authority to be public servant.** 48. All members and officers and employees of the Authority, the Commissioner and all officers and persons appointed under section 3 to assist him and all members of the Tribunal shall, when acting or purporting to act in pursuance of the provisions of this Act, or any rules or regulations made thereunder, be deemed to be public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.
- Protection of action taken in good faith.** 49. No suit, prosecution or other legal proceeding shall lie against the Authority or any member, officer or employee of the Authority and the Commissioner and officers and persons appointed under section 3 to assist him for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act, or any rules or regulations made thereunder.

50. (1) In performance of its functions under this Act, the Authority and the Commissioner shall be bound by such directions on questions of policy as the State Government may give in writing to it from time to time:

Power of State Government to give directions to Authority.

Provided that the Authority shall be given an opportunity to express its views before any direction is given under this sub-section.

- (2) The decision of the State Government whether the question is of a policy or not, shall be final.

51. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

Power of State Government to make rules.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

- (a) the salary, allowances and other conditions of service of the members under sub-section (2) of section 7;
- (b) the period of notice to be given under sub-section (3) of section 10;
- (c) the procedure to be followed by the Committee for disposal of its business under sub-section (3) of section 11;
- (d) the procedure in accordance with which an inquiry shall be held under clause (j) of section 17;
- (e) the other functions to be performed by the Authority under clause (l) of section 17;
- (f) the other matter in respect of which the Authority shall have power of a civil court under clause (g) of sub-section (1) of section 18;
- (g) the form in which and the time at which the Authority shall prepare its budget under section 20;
- (h) the form in which an annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 21;
- (i) the form in which and the time at which the Authority shall prepare its annual report under sub-section (1) of section 22;
- (j) the rules subject to which a specified company shall carry on the business of transmission in the State under clause (b) of sub-section (1) of section 23;
- (k) the form in which an application shall be made and the particulars which it shall contain and the fees with which it shall be accompanied under sub-section (2) of section 26;
- (l) the form in which and the terms and conditions subject to which a licence shall be granted and fees to be paid therefor under sub-section (3) of section 26;
- (m) the value of court fee stamp which an appeal shall bear under sub-section (5) of section 32; and
- (n) any other matter which has to be, or may be, prescribed under this Act.

- (3) In making rules under this section, the State Government may direct that a breach thereof shall be punished with fine not exceeding five lakhs of rupees and when the breach is a continuing one, with fine not exceeding twenty thousand rupees for every day during which the breach continues after conviction for the first breach.
- (4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.
- (5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to
make
regulations.

- 52. (1) The Authority may, with the previous approval of the State Government, by notification in the *Official Gazette*, make regulations not inconsistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act.
- (2) In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely: —
 - (a) the time and place of the meetings of the Authority, the procedure to be followed in regard to the transaction of its business at such meetings and the quorum necessary for transaction of business at meetings under sub-section (1) of section 13,
 - (b) the manner of recruitment of , the salary and allowances payable to, and other conditions of service of officers and employees of the Authority under sub-section (2) of section 14,
 - (c) the terms and conditions of appointment of consultants under section 15,
 - (d) the principles of common carrier for transmission and distribution under section 17,
 - (e) the circumstances in which licensees shall inform the consumers of gas about their rights and compensation to be paid under section 41, and
 - (f) the form in which the information or return shall be furnished, the particulars which they shall contain and intervals at which they shall be furnished under sub-section (2) of section 43.
- (3) In making regulations under this section, the Authority may direct that a breach thereof shall be punished with fine not exceeding five lakhs of rupees and when the breach is a continuing one, with fine not exceeding twenty thousand rupees for every day during which the breach continues after conviction for the first breach.
- (4) All regulations made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may

make during the session in which they are so laid or the session immediately following.

- (5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

53. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provision, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

54. (1) Until the Gujarat Gas Regulatory Authority is duly established and constituted under this Act for the first time, its functions and powers under this Act shall be performed and exercised by the State Government or such officer as may be authorised by the State Government by notification in the *Official Gazette*.

Transitional provision.

- (2) Anything done or any action taken by the State Government or the officer so authorised in the performance of the functions or the exercise of the powers of the Authority under sub-section (1), shall be binding on the Authority when it is so established and constituted.

55. (1) Any person who has been carrying on the business of transmission at any pressure in the State before the date of commencement of this Act (hereinafter in this section referred to as "the commencement date") may subject to the provisions of this Act continue to carry on the business of transmission on or after the commencement date so however that—

Savings.

- (a) he shall not lay any pipeline in addition to those existing immediately before the commencement date; and

- (b) where the quantum of gas which he transmits on or after the commencement date by means of pipelines existing before the commencement date exceeds the quantum of gas transmitted by him on the day immediately before the commencement date—

- (i) the charges for transmitting the excess gas shall be regulated by the Authority, and

- (ii) the transmission of the excess gas shall be based on the principles of common carrier.

- (2) A licensee or a supplier or a bulk consumer may undertake transmission and lay and operate dedicated pipelines therefor subject to the previous approval of a specified company and such regulations which the Authority may make with regard to the standards of safety, operation and environment.

Explanation.—For the purpose of this sub-section, the expression "dedicated pipeline" means a pipeline laid and operated by a licensee or by a

supplier or by a bulk consumer for obtaining gas from pipelines operated for transmission by a specified company or a person referred to in sub-section (1).

Repeal and savings.

56. (1) The Gujarat Gas (Regulation of Transmission, Supply and Distribution) Ordinance, 2000 is hereby repealed.

Guj. Ord. 7 of 2000.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

Many Liquefied Natural Gas (LNG) import projects have been planned in the State of Gujarat to meet with the growing demand of gas as fuel from industrial, commercial and domestic establishments. Indigenous natural gas availability in the State of Gujarat is not sufficient to meet with even the current demand. LNG is the answer to the growing fuel need of the State. Because of its strategic coastal location, the State of Gujarat is well positioned to help neighbouring states also for meeting with their needs of gas.

In order to ensure systematic and integrated development of gas industry in the State, it was considered necessary to set up a Gas Regulatory Authority. The Authority has not only to regulate transmission, supply and distribution of gas but also to look after the environmental safety and efficiency aspects of developing the gas industry in the State. In order to encourage investment in distribution sector, it was also considered necessary to provide for licensing of gas distribution.

The Gas transmission pipeline systems are highly capital intensive and duplication thereof is not in the interest of gas consumers. In the interest of co-ordinating development of gas industry, it was considered necessary to introduce principle of common carrier for operation of gas pipelines. It was therefore, considered necessary to confer on a specified company, exclusive responsibilities for developing and operating integrated gas transmission system in the State so as to ensure cost efficient and systematic operation of the gas grid system in the State.

For this purpose, a Bill called the Gujarat Gas (Regulation of Transmission, Supply and Distribution) Bill 2000 (Gujarat Bill No. 25 of 2000) was published with a view to introducing it in the last session of the Gujarat Legislative Assembly but could not be taken up by the House for want of time. Therefore, as the Gujarat Legislative Assembly was not in session, the Gujarat Gas (Regulation of Transmission, Supply and Distribution) Ordinance, 2000 was promulgated to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain the important provisions of the Bill :-

Clause 1. - This clause provides for short title, extent and commencement of the Act.

Clause 2. - This clause defines certain terms used in the Bill.

Clause 3. - This clause provides for the appointment of the Commissioner of Gas and such officers and persons to exercise the powers and perform functions and duties as are conferred or imposed by or under the Act.

Clause 4. - This clause provides for establishment and incorporation of the Gujarat Gas Regulatory Authority.

Clause 5. - This clause provides for the head quarters of the Authority.

Clause 6. - This clause provides for the constitution of Authority and qualifications for appointment as a Chairman and members.

Clause 7. - This clause provides for the term of office and the conditions of service of Chairperson and members of the Authority.

Clause 8.- This clause provides for occurrence of vacancy of member and filling up of such vacancies.

Clause 9.- This clause provides for disqualification incurred by a person for being appointed or being a member of the Authority.

Clause 10.- This clause empowers the State Government to remove a member of the Authority for the reasons stated therein and also provides for resignation of a member.

Clause 11.- This clause empowers the State Government to constitute a committee for holding inquiry for the purpose of removal of a member of the Authority.

Clause 12.- This clause prohibits a member from appearing before the Authority or accepting a job in any company carrying on business of transmission or distribution on ceasing to be a member, for a period of three years from the date of such cesser.

Clause 13.- This clause provides for time, place, quorum and rules of procedure with regard to transaction of the business at the meetings of the Authority.

Clause 14.- This clause provides for determination by regulations the number and the category of officers and employees of the Authority and the manner of recruitment and their conditions of service.

Clause 15.- This clause empowers the Authority to appoint consultants.

Clause 17.- This clause provides for the functions to be performed by the Authority.

Clause 18.- This clause provides for the powers of the Authority for holding inquiry under the Act.

Clauses 19 to 22. - These clauses provide for the fund of the Authority, preparation of the budget, maintenance of accounts and audit thereto and laying of annual report before the State Legislature.

Clause 23.- This clause prohibits carrying on the business of the transmission of gas in the State by any person other than a specified company.

Clause 24.- This clause provides for carrying on the business of transmission of gas in the State only by a specified company.

Clause 25.- This clause prohibits distribution of gas and laying of pipelines without a licence.

Clause 26.- This clause provides for grant of a licence by the Commissioner for carrying on the business of distribution of gas.

Clause 27.- This clause provides for amendment in the terms and conditions of a licence.

Clause 28.- This clause provides for suspension and revocation of licence.

Clause 29.- This clause provides for arbitration for disputes arising between the specified company and a licensee or between the licensees or between the person who supplies and who buys the gas.

Clause 30. – This clause provides for the constitution of a Tribunal and the appointment, term of office and conditions of service of members of the Tribunal and procedure to be followed for the disposal of its business.

Clause 31. – This clause provides for the powers of the Tribunal.

Clause 32. – This clause provides for appeals to the Tribunal.

Clause 33. – This clause bars the jurisdiction of the civil court.

Clause 34. – This clause provides for the penalty for contravention of certain provisions of the Act.

Clause 35. – This clause provides for general penalty for non-compliance of any order, direction or requisition lawfully made or given under the Act or any rules or regulations made thereunder.

Clause 36. – This clause provides for offences by companies.

Clause 37. – This clause provides for cognisance of offence.

Clause 38. – This clause provides for jurisdiction of criminal courts.

Clause 39. – This clause provides for compounding of offences and penalty thereof.

Clause 40. – This clause empowers the Authority to lay down the standards of performance in connection with transmission and distribution of gas.

Clause 41. – This clause empowers the Authority to prescribe by regulations the circumstances in which licencees shall inform the consumers of gas of their rights in relation to distribution of gas, and payment of compensation for any delay or default committed by licencees in distribution of gas.

Clause 42. – This clause empowers the Authority to collect information in respect of level of performance.

Clause 43. – This clause empowers the Authority to call upon all persons carrying on business of transmission, distribution or supply of gas to furnish information relating to their financial matters.

Clause 44. – This clause prohibits the authority to disclose information relating to transmission, distribution and supply of gas and other matters relating to business.

Clause 45. – This clause provides that dues of the Authority are recoverable as arrears of land revenue.

Clause 47. – This clause provides that all proceedings before the Authority and the Tribunal shall be deemed to be judicial proceedings.

Clause 48. – This clause provides that members, officers and employees of the Authority, the Commissioner, officers and members of the Tribunal shall be public servants.

Clause 49. – This clause provides for usual indemnity for acts done in good faith.

Clause 50. – This clause empowers the State Government to give directions to the Authority and Commissioner on questions of policy.

Clause 51. — This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2).

Clause 52. — This clause empowers the Authority to make regulations for enabling it to perform its function under the Act.

Clause 53. — This clause empowers the State Government to remove difficulty arising within three years from the commencement of the Act.

Clause 54. — This clause empowers the State Government or an authorised officer to exercise the powers and functions of the Gujarat Gas Regulatory Authority till such authority is established.

Clause 55. — This clause provides that any person who has been carrying on the business of transmission of gas before the commencement of the Act may continue to do so subject to the provisions specified therein.

KAUSHIK PATEL

FINANCIAL MEMORANDUM

This Bill, if enacted and brought into force would involve following expenditure from the Consolidated Fund of the State.

1. *Clause 3* empowers the State Government to appoint the Commissioner of Gas and other officers for performing the functions and duties conferred by or under the Act. This would involve annual expenditure to the extent of rupees fifty lakhs, out of which rupees twenty-five lakhs would be of recurring nature and rupees twenty-five lakhs would be of non-recurring nature.

2. *Clause 6* empowers the State Government to appoint the Chairman and two other members of the Gujarat Gas Regulatory Authority. This would involve an annual expenditure of rupees fifty lakhs, out of which rupees twenty-five lakhs would be of a recurring nature and rupees twenty-five lakhs would be of a non-recurring nature.

3. *Clause 30* empowers the State Government to constitute a Tribunal consisting of two members. This would involve annual expenditure to the extent of rupees twenty lakhs, out of which rupees ten lakhs would be of recurring nature and rupees ten lakhs would be of non-recurring nature.

KAUSHIK PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

Clause 1. - Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.

Clause 2. - (i) Sub-clause (i) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the high pressure in terms of kilograms per square centimeter;

(ii) sub-clause (l) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the low pressure in terms of kilograms per square centimeter;

(iii) sub-clause (r) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, such Government company to be a specified company.

Clause 3. - This clause empowers the State Government to appoint, by notification in the *Official Gazette*, the Commissioner, and also empowers the State Government to appoint other officers and persons and to give them such designation as it deems fit.

Clause 4. - This clause empowers the State Government to establish by notification in the *Official Gazette*, the Gujarat Gas Regulatory Authority and to specify the date with effect from which the Authority shall be established.

Clause 5. - This clause empowers the State Government to specify by notification in the *Official Gazette*, any other place as the headquarters of the Authority.

Clause 6. - This clause empowers the State Government to appoint a Chairperson and two other members of the Authority.

Clause 7. - Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the salary and allowances and other conditions of services of a member of the Authority.

Clause 10. - Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the period of notice for tendering the resignation by a member.

Clause 11. - This clause empowers the State Government to constitute by notification in the *Official Gazette*, a Committee for holding inquiry for removal of a member, and to prescribe by rules, the procedure to be followed by such committee for disposal of its business.

Clause 13. - Sub-clause (1) of this clause empowers the Authority to prescribe by regulations, the time and place at which the Authority shall meet and the rules of procedure in regard to transaction of its business at meeting to be observed by the Authority.

Clause 14. - Sub-clause (2) of this clause empowers the Authority to determine by regulations, the manner of recruitment, salary and allowances payable to and other conditions of service of officers and employees of the Authority.

Clause 15. - This clause empowers the Authority to determine by regulations, the terms and conditions for appointment of Consultant.

Clause 17.—(i) Para (j) of this clause empowers the State Government to prescribe by rules, the procedure for holding an inquiry;

(ii) para (l) of this clause empowers the State Government to prescribe by rules, the other functions to be performed by the Authority.

Clause 18.— Para (g) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, any other matter for which Authority have powers of a civil court.

Clause 19.— Sub-clause (4) of this clause empowers the State Government to direct by order, the Authority, to deposit its moneys in such bank or to invest in Government securities or in other manner.

Clause 20.— This clause empowers the State Government to prescribe by rules, the form in which and the time by which the budget shall be prepared by the Authority.

Clause 21.— Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form in which the annual statement of accounts of the Authority shall be prepared.

Clause 22.— Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form in which and the time by which annual report shall be prepared by the Authority.

Clause 23.— Para(b) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, subject to which a specified company shall carry on the business of transmission in the State.

Clause 26.— (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form in which application for licence shall be made, the particulars which it shall contain and the fees with which it shall be accompanied;

(ii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the form of licence, the terms and conditions which it shall contain and the fees on payment of which such licence may be granted.

Clause 29.— Para (c) of sub-clause (1) of this clause empowers the Authority to prescribe by the regulations, the procedure to be followed in adjudicating the disputes.

Clause 30.— (i) Sub-clause (1) of this clause empowers the State Government to constitute a Tribunal consisting of two members to discharge the functions conferred on it by or under the Act ;

(ii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the term of office and conditions of service of the members of the Tribunal ;

(iii) sub-clause (5) of this clause empowers the State Government to prescribe by rules, the conditions and limitations subject to which the Tribunal may award the cost ;

(iv) sub-clause (6) of this clause empowers the Tribunal to prescribe by regulations, the procedure and the disposal of its business.

Clause 31.— Para (d) of sub-clause (1) of this clause empowers the State Government to prescribe by rules, other matters for which Tribunal may exercise the powers of civil court.

Clause 32. — Sub-clause (5) of this clause empowers the State Government to prescribe by rules, the value of the Court fees stamp which an appeal shall bear.

Clause 40.—(i) Sub-clause (1) of this clause empowers the Authority to prescribe by order, the standards of performance for transmission and distribution of gas, efficient use of gas, operation codes and safety regulation of transmission and distribution system ;

(ii) sub-clause (2) of this clause empowers the Authority to prescribe, the manner in which the order of the Authority shall be published.

Clause 41.— This clause empowers the Authority to prescribe by regulations, the circumstances in which the licensee shall inform the consumers of gas of their rights in relation to distribution and compensation to be paid by the licensees to the consumers for delay and default in distribution.

Clause 42. — Sub-clause (3) of this clause empowers the Authority to publish not less than once in a year, the information with respect to level of performance in such form and in such manner as it may deem fit.

Clause 43. — Sub-clause (2) of this clause empowers the Authority to prescribe by regulations, the form in which, the particulars with which and the interval at which the returns shall be furnished.

Clause 50. — Sub-clause (1) of this clause empowers the State Government to give directions, in writing, to the Authority on questions of policy.

Clause 51.— This clause empowers the State Government to make, by notification in the *Official Gazette*, rules for carrying out the purposes of the Act.

Clause 52.— This clause empowers the Authority to make, by notification in the *Official Gazette*, regulations for enabling it to perform its functions under the Act.

Clause 53. — This clause empowers the State Government to make an order for removing the difficulty arising in giving effect to the provisions of the Act.

Clause 54.— Sub-clause (1) of this clause empowers the State Government to authorise an officer to perform the functions and exercise the powers of the Authority until the Authority is constituted.

The delegation of the legislative powers as aforesaid is necessary and is of a normal character.

Dated the 16th March, 2001.

KAUSHIK PATEL

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 16th March, 2001.

Government Central Press. Gandhinagar.



सममेव जयते

The Gujarat Government Gazette EXTRAORDINARY

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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL (GUJARAT AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 8 OF 2001.

A BILL

*further to amend the Bombay Rents, Hotel and Lodging
House Rates Control Act, 1947.*

It is hereby enacted in the Fifty-second Year of the Republic
of India as follows :—

1. This Act may be called the Bombay Rents, Hotel and
Lodging House Rates Control (Gujarat Amendment) Act, 2001.

Short title.

Bom. LVII
of 1947.

2. In the Bombay Rents, Hotel and Lodging House Rates
Control Act, 1947 (hereinafter referred to as 'the principal Act'),
in section 3, in sub-section (2), for the words, figures and letters
" the 31st day of March, 2001 "; the words, figures and letters
" the 31st day of March, 2006 " shall be substituted.

Amend-
ment of
section 3
of Bom.
LVII of
1947.

Insertion
of new
section
11B in
Bom.LVII
of 1947.

Right of
tenants in
new build-
ing when
premises
damaged
or de-
stroyed
due to
natural
calamity.

3. In the principal Act, after section 11A, the following new section shall be inserted, namely:-

"11B. Where by reason of earthquake or any other natural calamity, any material part of the premises is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let,-

(a) the landlord shall erect the new building at the original site, subject to the provisions of any rules, bye-laws or regulations, made by a local authority, not later than twelve months from the date on which material part of premises of the building is wholly destroyed or rendered substantially and permanently unfit:

Provided that the State Government may for sufficient reasons extend the said period of twelve months to such further period not exceeding twelve months as it thinks fit.

(b) the tenant shall have the right to occupy a tenement in the new building erected at the original site by the landlord, and

the provisions of sections 17B and 17C shall, so far as may be, apply."

Amend-
ment of
section 12
of
Bom.LVII
of 1947.

4. In the principal Act, in section 12, after sub-section (1A), the following sub-section shall be inserted, namely :—

-(1B) Where by reason of earthquake or any other natural calamity, any material part of premises is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let, the landlord shall not be entitled to--

(a) the standard rent and permitted increases due for the premises,

(b) recover possession of such premises merely on the ground of non payment of standard rent and permitted increases due,

during the period in which such premises remained so destroyed or unfit."

**Amend-
ment of
section
17D of
Bom.LVII
of 1947.**

5. In the principal Act, in section 17D,-

(1) sub-section (1) shall be renumbered as clause (a) of that sub-section and in clause (a) as so renumbered,—

(i) after the words, figure and letter" of section 11A", the words, brackets, figure and letters " or as the case may be, in clause (a) of section 11B" shall be inserted;

(ii) for the words "exist or not", the words, figure and letter "or section 11B exist or not" shall be substituted;

(2) after clause (a) as so renumbered, the following clause shall be inserted, namely :--

" (b) The terms and conditions for providing accommodation to tenants after erection of new building shall be such as may be prescribed. "

6. In the principal Act, in section 49, in sub-section (2), after clause (aai), the following clause shall be inserted, namely:—

" (aaai) the terms and conditions for providing accommodation to tenants under clause (b) of sub-section (1) of section 17D."

**Amendment
of section
49 of
Bom.LVII of
1947.**

STATEMENT OF OBJECTS AND REASONS

The object underlying the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 *inter-alia* is to prohibit landlords from increasing the rent above the maximum permitted under the Act, conforms security of tenure on tenants and permits landlord to recover possession only on certain specified grounds. This Act expires on the 31st March, 2001. As the problem of housing in the State of Gujarat still continues to be acute, it is proposed to extend the duration of the Act for a further period of five years, i.e. upto 31st March, 2006.

New section 11B proposed to be inserted in the Act *inter-alia* provides that where by reason of earthquake or any other natural calamity, any material part of the premises destroyed or rendered unfit for use, the landlords shall erect new building at the original site within a period of twelve months which can be extended by the Government, in case of necessity, for a further period of twelve months. A provision has also proposed to be made that the tenant shall have right to occupy a tenement in the new building erected at the original site by the landlord.

With a view to giving protection to a tenant from eviction, it is proposed to insert a new sub-section (1B) in section 12 to provide that the landlords shall not be entitled to recover the possession of the premises on the ground of non-payment of standard rent and permitted increase during the period in which such premises remained so destroyed or unfit.

Section 17D is proposed to be amended so as to provide that if the landlord fails to erect new building within the period specified in clause (a) of section 11B, the original site shall vest in the State Government free from all encumbrances, for the purpose of erection of new building to provide accommodation to the tenant.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

NAROTTAMBHAI PATEL

FINANCIAL MEMORANDUM

New clause (b) proposed to be inserted in sub-section (1) of section 17D and new clause (aaai) proposed to be inserted in sub-section (2) of section 49 in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, by clauses 5 and 6 of the Bill which, if enacted, and brought into operation, would involve expenditure from the Consolidated Fund of the State. The said sub-section (1) provides for payment of such compensation, to be determined by the Collector, to the landlord in respect of the site vested in the State Government. The number and area of sites which may vest in the State Government and the amount of compensation that may be determined by the Collector in respect of each such site under that sub-section cannot be anticipated. In the circumstances, it is not possible to give an estimate of an amount of compensation which would be required to be paid from the Consolidated Fund of the State under the aforesaid sub-section.

NAROTTAMBHAI PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :—

Clauses 5 and 6.—New clause (b) proposed to be inserted in sub-section (1) of section 17D and new clause (aaai) proposed to be inserted in sub-section (2) of section 49 by clauses 5 and 6 of this Bill empower the State Government to prescribe by rules, the terms and conditions for providing accommodation to tenants after erection of new building.

The delegation of the legislative power as aforesaid is necessary and is of a normal character.

Dated the 20th March, 2001.

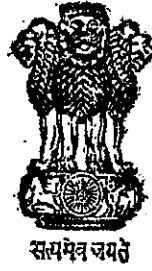
NAROTTAMBHAI PATEL.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 21st March, 2001.

Government Central Press, Gandhinagar.



The Gujarat Government Gazette EXTRAORDINARY

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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on 23rd March, 2001 by
Shri Kaushik Patei, Minister for Energy is published under Rule 127-A of
the Gujarat Legislative Assembly Rules for general information.

THE GUJARAT ELECTRICITY INDUSTRY (REORGANISATION AND REGULATION) BILL, 2001.

A BILL GUJARAT BILL NO. 9 OF 2001.

*to provide for reorganisation and rationalisation of electricity industry in
the State of Gujarat and for establishing an Electricity Regulatory
Commission in the State for regulating the electricity industry and for
matters connected therewith or incidental thereto.*

It is hereby enacted in the Fifty-second Year of the Republic of India
as follows:

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2001. Short title,
extent and
commence-
ment.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,—

- (a) "Advisory Committee" means a committee constituted under section 36;
- (b) "Central Act" means the Electricity Regulatory Commissions Act, 14 of 1998. 1998;
- (c) "Central Commission" means the Central Electricity Regulatory Commission established under sub-section (1) of section 3 of the Central Act;
- (d) "Commission" means the Gujarat Electricity Regulatory Commission established under section 3;
- (e) "Chairperson" means the Chairperson of the Commission;
- (f) "electricity industry" means an industry engaged in generation, transmission, distribution, supply and utilisation of electricity in the State;
- (g) "licence" means a licence granted under section 20 and includes a licence deemed to have been granted under this Act;
- (h) "licensee" means a person holding a licence.
- (i) "local authority" means a municipal corporation, nagar panchayat, municipal council, district panchayat, taluka panchayat, notified area committee or Cantonment Board constituted under the relevant local authority law;
- (j) "member" means a member of the Commission and includes the chairperson of the Commission;
- (k) "prescribed" means prescribed by rules;
- (l) "regulations" means regulations made under this Act;
- (m) "relevant local authority law" means-
 - (i) in relation to a city, the Bombay Provincial Municipal Corporations Act, 1949; Bom. LIX of 1949.
 - (ii) in relation to a municipal borough, transitional area, smaller urban area and notified area, the Gujarat Municipalities Act, 1963; Guj. 34 of 1964
 - (iii) in relation to a taluka and district, the Gujarat Panchayats Act, 1993; Guj. 18 of 1993
 - (iv) in relation to a cantonment, the Cantonments Act, 1924; 2 of 1924.
- (n) "rules" means rules made under this Act;
- (o) "selection committee" means the selection committee constituted under section 6;
- (p) "Tribunal" means the Tribunal constituted under section 45;
- (q) words and expressions used but not defined in this Act and defined in the Central Act shall have the meanings respectively assigned to them in that Act;
- (r) words and expressions used but not defined either in this Act or in the Central Act and defined in the Indian Electricity Act, 1910, or in the Electricity (Supply) Act, 1948 shall have the meanings respectively assigned to them in those Acts. 9 of 1910. 54 of 1948.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF COMMISSION

3. (1) For the purpose of regulating electricity industry in the State, the State Government shall, by notification in the *Official Gazette*, establish a Commission by the name of the Gujarat Electricity Regulatory Commission with effect from such date (not being a date later than six months from the date of commencement of this Act) as may be specified in the notification.

Establishment
and
incorporation
of
Commission.

(2) The Commission shall be a body corporate, with perpetual succession and common seal and may sue or be sued in its corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold or dispose of property both movable and immovable, and to contract and do all things necessary for the purposes of this Act.

4. The headquarters of the Commission shall be at Ahmedabad or at such other place as the State Government may, by a notification in the *Official Gazette*, specify.

Headquarters
of
Commission.

5. (1) The Commission shall consist of a Chairperson and two other members to be appointed by the State Government on the recommendation of a Selection Committee constituted under section 6:

Constitution
of
Commission.

(2) Out of three members, -

(a) one shall be a person who has special knowledge and professional experience in the field of engineering related to transmission or distribution of electricity or in the field of regulation of transmission or distribution of electricity ;

(b) the other two shall be the persons who have special knowledge and professional experience in the field of finance, commerce, economics, law or management:

Provided that not more than one member shall be appointed having professional knowledge and experience in the same field:

Provided further that where a person who is or has been a judge of the High Court is appointed under sub-section (3) as a member, the other member shall not be a person who has special knowledge or professional experience in the field of law.

(3) The State Government may, if it thinks fit, appoint a person who is or has been a judge of the High Court as a member of the Commission after consultation with the Chief Justice of the High Court :

Provided that no recommendation of the Selection Committee shall be necessary for appointment of a member under this sub-section.

(4) A member of the Commission shall render whole time service and shall not hold any other office during his tenure of office.

6. (1) The State Government shall, for the purpose of selecting the members of the Commission, constitute a Selection Committee consisting of following members, namely:-

Constitution
of Selection
Committee
and its
functions.

(a) a person who has been a judge of the High Court to be the Chairperson *ex-officio*;

(b) the Chief Secretary to the Government of Gujarat *ex-officio*; and

(c) the Chairperson or a member of the Central Electricity Authority *ex-officio*.

(2) The State Government shall, within one month from the date of the coming into force of this Act or, as the case may be, of occurrence of any vacancy by reason of death, resignation or removal and six months before the superannuation or end of tenure of a Chairperson or any member, make a reference to the Selection Committee for the constitution of the Commission or for filling up of the vacancy.

(3) The Selection Committee shall, after satisfying itself that the persons whose names are being recommended by it possess the qualifications mentioned in sub-section (2) of section 5 and are not disqualified under section 9, recommend within one month from the date on which the reference is received by it, a panel of two names for each member in the case of the constitution of the Commission and in the case of each vacancy.

(4) The Selection Committee, for the purposes of sub-section (3) shall determine such procedures as it deems appropriate.

Term of
office and
conditions
of service
of
members.

7. (1) A member shall hold office for a period of five years from the date on which he enters upon his office :

Provided that he shall cease to be a member on the day on which he attains the age of sixty-five years.

(2) No person shall be appointed as a member-

(a) in case where he is or has been a judge of a High Court, after he has attained the age of sixty-three years; and

(b) in other cases after he has attained the age of sixty-two years.

(3) A member shall not be eligible for re-appointment after the expiry of the term of his appointment.

(4) The salary and allowances payable to, and other conditions of service of, members shall be such as may prescribed:

Provided that the salary and allowances and other conditions of service of a member shall not be varied to his disadvantage during the tenure of his office.

(5) The Chairperson and every member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

Filling up of
vacancies.

8. On occurrence of any vacancy in the office of a member due to death, resignation or any other reason, the same shall be filled in by the State Government in the manner provided in section 5.

Disqualifica-
tions.

9. A person shall be disqualified for being appointed or being a member of the Commission, if-

(a) he is a member of the Parliament or of any State Legislature or any local authority; or

(b) he is a member of a political party;

(c) he is, or at any time, has been adjudged an insolvent or has suspended payment of his debts or has compounded with his creditors;

(d) he is of unsound mind and stands so declared by a competent court;

(e) he is, or has been convicted of any offence which in the opinion of the State Government, involves moral turpitude;

(f) he has either directly or indirectly any financial or other interest which is likely to affect prejudicially his functioning as a member;

(g) he has either directly or indirectly any financial or other interest in -

(i) generation, transmission, distribution or supply of electricity,

(ii) manufacture, sale or supply of any fuel for generation of electricity,

(iii) manufacture of, or any dealings in, plant and machinery, equipments, apparatus or fittings for the matters specified in sub-clause (i), or

(iv) any body which provides professional services in relation to matters specified in the aforesaid sub-clauses.

10. (1) Notwithstanding anything contained in sub-section (1) of section 7, the State Government may, at any time, remove any member from office, if, in its opinion, such a member -

Removal
and
resignation
of a
member.

(a) is or has become, subject to any of the disqualifications mentioned in section 9,

(b) has been guilty of misconduct in discharge of his duties,

(c) has become physically or mentally incapable of discharging his duties as a member,

(d) has so abused his position as to render his continuance in office prejudicial to public interest, or

(e) has without reasonable cause refused or failed to perform his duties for a period of not less than three months:

Provided that no member shall be removed from his office-

(a) on the ground specified in clause (f) or (g) of section 9 or clause (b), (c) or (d) of sub-section (1) of this section, unless the High Court on a reference made to it in this behalf by the State Government, has on an inquiry, reported that the member is liable to be removed on such ground;

(b) on any other ground, unless an opportunity of being heard is given to the member.

(2) A member in respect of whom a reference has been made to the High Court under sub-clause (a) of proviso to sub-section (1), shall not perform the functions as a member until the State Government removes the member from his office or decides not to remove the member from his office on the basis of the report of the High Court on such reference.

(3) Any member may resign from his office by giving notice in writing, for such period as may be prescribed, to the State Government, and on

such resignation being accepted by the State Government, he shall be deemed to have vacated his office.

Prohibition of appearance before Commission etc., on ceasing to be a member.

11. A person who ceases to be a member shall not -

(a) be entitled to appear for a period of three years in any proceedings before the Commission as a representative of any person;

(b) acquire either directly or indirectly any financial or other interest of the nature specified in clause (g) of section 9 for a period of two years from the date of such cesser;

(c) accept any employment in any electricity industry in the State for a period of two years from the date of such cesser.

Meetings of Commission.

12. (1) The Commission shall meet at such times and places and shall, subject to sub-sections (2) and (3), observe such rules of procedure with regard to transaction of business at its meetings as may be provided by regulations.

(2) The Chairperson or, if for any reason, he is unable to attend any meeting, any other member authorised by the Chairperson and present at the meeting, shall preside at the meeting of the Commission.

(3) (a) All the questions at a meeting of the Commission shall be decided by a majority;

(b) The quorum of the meetings of the Commission shall not be less than two members.

Officers and employees of Commission.

13. (1) The Commission, in order to enable it to perform its functions, may -

(a) with the approval of the State Government -

(i) appoint a Secretary and

(ii) determine the number and category of other officers and employees; and

(b) appoint the other officers and employees so determined.

(2) The manner of recruitment of, the salary and allowances payable to, and other conditions of service of the Secretary, officers and other employees, shall be such as may be determined by the Commission by regulations.

Consultants.

14. The Commission may, for the purpose of enabling it to perform its functions, appoint consultants on such terms and conditions as may be determined by it by regulations.

Salary and allowances of members to be charged on Consolidated Fund of State.

15. The expenditure on account of salaries and allowances payable to, or in respect of, the Chairman and members of the Commission shall be charged upon the Consolidated Fund of the State.

Acts and proceedings presumed to be valid.

16. (1) No act or proceeding of the Commission shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect in, the constitution of the Commission.

(2) No act done by any person acting in good faith as a member shall be deemed to be invalid merely on the ground that he was disqualified to be a member or that there was any other defect in his appointment.

CHAPTER III**FUNCTIONS AND POWERS OF COMMISSION**

17. Subject to the provisions of this Act, the Commission shall perform the following functions, namely:- Functions of Commission.

(a) to regulate purchase, distribution, supply and utilisation of electricity, the quality of service and the tariff and charges payable for supply of electricity considering both the interest of the consumer and the utilities;

(b) to regulate the procedure—

(i) for purchase and procurement of electricity from any source by a licensee for transmission, sale, distribution and supply thereof in State; and

(ii) for determination of the price for such purchase or procurement;

(c) to promote efficiency, economy and safety in the use of the electricity in the State;

(d) to determine the tariff for electricity; wholesale, bulk, grid or retail in accordance with the provisions of this Act;

(e) to determine the tariff payable for the use of the intra-State transmission facilities in accordance with the provisions of this Act;

(f) to issue licences in accordance with the provisions of this Act and determine the conditions to be included in the licences;

(g) to regulate the working of the licensees and to ensure that the working of licensees is efficient, economical and equitable;

(h) to require licensees to formulate perspective plans and schemes in co-ordination with the other persons for the promotion of transmission, distribution, supply and use of electricity;

(i) to require the licensees to collect data and forecast the demand for use of electricity;

(j) to set and enforce standards for the electricity industry in the State including standards relating to safety, quality, continuity and reliability of service;

(k) to promote competitiveness in the electricity industry in the State;

(l) to formulate codes and practices for operation of the State Grid;

(m) to promote efficient utilisation and conservation of electricity, reduction of wastes and losses in the use of electricity;

(n) to advise the State Government, as the Commission deems appropriate, on matters concerning transmission, distribution, supply and utilisation of electricity in the State;

(o) to refer, if the Commission deems appropriate, matters to other agencies and bodies dealing with consumer disputes, restrictive and unfair trade practices and management and administration of the affairs of the licensees;

(p) to adjudicate upon the disputes and differences between the licensees and to refer matters to arbitration, if considered necessary in accordance with the provisions of this Act;

(q) to undertake all incidental or ancillary functions that the Commission may consider appropriate.

Powers of Commission. 18. (1) The Commission shall, for the purposes of any inquiry under this Act have the powers of a civil court while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any witness and examining him on oath;

(b) requiring the discovery and production of any document or other material object producible as evidence;

(c) receiving of evidence on affidavits;

(d) requisitioning of any public record or a copy thereof from any court or office;

(e) issuing commissions for examination of witnesses or documents;

(f) review of its decisions, directions and orders; and

(g) any other matter which may be prescribed.

(2) The Commission shall have the power to pass such interim order in any matter before it, as it may consider appropriate.

(3) Where the Commission is of the opinion that it is necessary so to do for the purposes of this Act, it may require by an order in writing to any person-

(a) to produce before, or to allow examination by, an officer specified in the said order such books, accounts, or other documents in the custody or control of that person, relating to any matter concerning the transmission, distribution, supply or use of electricity, as may be specified in the order, and

(b) to furnish to the officer specified in the order such information in his possession, power or control as may be specified in the order.

(4) Where during any inquiry or proceedings under this Act, the Commission has reason to believe that any books or accounts or documents of or relating to any person engaged in transmission, distribution and supply or use of electricity in relation to whom such inquiry is made or proceedings are undertaken are being or may be destroyed, mutilated, altered, falsified or secreted, the Commission may by written order authorise any officer of the Commission to enter and search any place of business of the person or any other place where the Commission has reason to believe that the person keeps or is for the time being keeping the books, or accounts or documents and to seize the same and after granting a receipt therefor retain the same for so long as is necessary in connection with such inquiry.

- 2 of 1974. (5) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall apply so far as may be the search made under sub-section(4).
- (6) The Commission may, by a general or special order call upon any person to furnish to the Commission periodically or, as and when required, any information concerning his activities related to transmission, distribution and supply or use of electricity.
- 9 of 1910. (7) Notwithstanding anything contained in sections 12 to 16 (both inclusive) and sections 18 and 19 of the Indian Electricity Act, 1910, the Commission may for the purpose of placing of the electric supply lines, appliances and apparatus for transmission, distribution and supply of electricity, by order in writing, confer upon a licensee or any other person engaged in transmission, distribution or supply of electricity any of the powers which the telegraph authority possess under the Indian Telegraph Act, 1885 with respect to placing of telegraph lines and posts subject to such conditions as the Commission may specify in such order.
- 13 of 1885.

CHAPTER IV

LICENSING OF TRANSMISSION AND SUPPLY OF ELECTRICITY

19. (1) No person shall carry on business of transmitting or supplying electricity in the State except under a licence issued by the Commission under section 20 or sanction granted under section 26.

Prohibition against business of transmission or supply of electricity without licence and without connecting meters.

(2) Where any difference or dispute arises as to whether any person is or is not engaged or about to engage in the business of transmitting or supplying electricity, the matter shall be referred to the Commission and the decision of the Commission thereon shall be final.

(3) With effect on and from such date as the State Government may, by notification in the *Official Gazette*, appoint, no licensee shall supply electricity to any consumer unless a correct meter is installed for ascertaining the quantity of electricity supplied to the consumer.

20. (1) The Commission may, on an application made to it in such form and on payment of such fee as may be prescribed by regulations, grant a licence to any person -

Grant of licences.

(a) to transmit electricity in a specified area of transmission; or

(b) to supply electricity in a specified area of supply or supply of electricity in bulk to any other licensee or person; or

(c) both to transmit electricity in a specified area of transmission and to supply electricity in a specified area of supply:

Provided that no application for a licence to transmit electricity shall be entertained unless the applicant has obtained the approval of the State Transmission Utility in such manner as may be prescribed by regulations.

Explanation.— For the purpose of this sub-section, the expression 'specified area' means the area specified in the licence.

(2) (a) A person who applies for a licence under sub-section (1) shall publish a notice of his application within a period of fourteen

days from the date of the application in such manner and with such particulars as the Commission may prescribe by regulations.

(b) The Commission shall not grant a licence until,-

(i) all objections received by the Commission with reference to the application have been considered by the Commission :

Provided that no objection shall be considered unless it is received before the expiration of such period not being less than a month from the date of the first publication of the notice under clause (a), as the Commission may prescribe by regulations, and

(ii) in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes, the Commission has ascertained that there is no objection from the Central Government to the grant of the licence;

(c) Where an objection is received from any local authority concerned, the Commission shall, if in its opinion, the objection is insufficient, record the opinion in writing and communicate it to such local authority along with reasons therefor.

(3) (a) There shall be specified in a licence -

(i) the area of transmission, or

(ii) the area of supply, or

(iii) both the area of transmission and supply, or

(iv) other licensee or person to whom electricity may be supplied in bulk, and

(v) such terms and conditions including those relating to such transmission or supply as may be prescribed by regulations.

(b) The Commission may prescribe by regulations the conditions to be included in a licence requiring a licensee to-

(i) enter into an agreement with another person permitting such person to use electric lines, electrical plant and associated equipment operated by the licensee;

(ii) furnish information and documents which the Commission may require for its purpose;

(iii) inform the Commission of any scheme permitted by the licence which the licensee proposes to undertake;

(iv) undertake such functions and obligations of the Board under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 as the Commission may by regulations prescribe; 9 of 1910. 54 of 1948.

(v) refer a dispute arising under the licence for determination by the Commission or by arbitrator appointed by the Commission;

(vi) supply electricity in bulk to other licensees or to consumers of electricity;

(vii) comply with any direction given by the Commission, and

(viii) act in accordance with the terms of the licence.

(4) A licence granted for transmission of electricity may authorise the licensee to construct, maintain or operate any intra-State Transmission System under the direction, control and supervision of the State Transmission Utility.

9 of 1910. (5) The provisions contained in the Schedule to the Indian Electricity Act, 1910 shall be deemed to be incorporated with, and to form part of, every licence granted under this Chapter save in so far as they are expressly added to, varied or excepted by the licence and shall, subject to any such additions, variations or exceptions which the Commission is hereby empowered to make, apply to the undertaking authorised by the licence:

Provided that where a licence is granted by the Commission for the supply of electricity to other licensees for distribution by them, then in so far as such licence relates to such supply, the provisions of clauses IV, V, VI, VII, VIII and XII of the said Schedule shall not be deemed to be incorporated with the licence.

(6) Unless otherwise specifically provided in the licence, the grant of licence to a person shall not in any way hinder or restrict the grant of a licence to another person within the same area of supply for a like purpose.

9 of 1910. 21. Subject to the provisions of this Act, the provisions of sections 12 to 24 and 26 of the Indian Electricity Act, 1910 shall have effect as if reference to a licensee in those provisions is a reference to a licensee under this Act.

Powers of licensees.

22. (1) Where in its opinion the public interest so requires, the Commission may, on the application of the licensee and if the licensee is not a local authority, on the application of the local authority concerned or otherwise, may make such amendments in the terms and conditions of a licence as it thinks fit having regard to the object and purposes of this Act:

Amendment of licence.

Provided that no such amendment shall be made except with the consent of the licensee.

(2) Where the licensee has made an application under sub-section (1) proposing an amendment in his licence, the following provisions shall apply, namely:-

(a) The licensee shall publish a notice of the application in such manner and with such particulars as the Commission may prescribe by regulations.

(b) The Commission shall not make any amendment until all objections received by it with reference to the application within one month from the date of the first publication of the notice have been considered.

(c) In the case of an application proposing an amendment in an area of supply comprising the whole or any part of the cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or

place in the occupation of the Central Government for defence purposes, the Commission shall not make the amendment except with the consent of the Central Government.

(3) Before making any amendment in a licence otherwise than on the application of the licensee, the Commission shall publish the proposed amendment in such manner and with such particulars as the Commission may prescribe by regulations and consider all objections received by it with reference to the proposed amendment within one month from the date of the publication of the notice.

Revocation
of licence.

23. (1) The Commission may inquire into the functioning of any licensee in carrying out the obligations under this Act or the rules or regulations made thereunder or the terms and conditions of the licence,-

(a) upon receiving a complaint relating to the functioning of the licensee from a consumer or association of consumers; or

(b) upon a reference made to it by the State Government, Central Government, the Central Commission, Central Electricity Authority or any other Authority; or

(c) on its own motion.

(2) If upon making such inquiry, the Commission is of the opinion, that the public interest so requires, revoke a licence in any of the following cases, namely:-

(a) where the licensee, in the opinion of the Commission, has committed a wilful or unreasonably prolonged default in doing anything required by or under this Act,

(b) where the licensee commits a breach of any of the terms and conditions of the licence, the breach of which is expressly declared by such licence to render it liable to revocation,

(c) where the licensee fails within the period specified in the licence or any longer period that the Commission may, by order, allow -

(i) to show, to the satisfaction of the Commission, that he is in a position to discharge the duties and obligations imposed on him by the licence; and

(ii) to make the deposit or furnish the security required by the licence.

(d) where in the opinion of the Commission the financial position of the licensee is such that the licensee is unable to discharge the duties and obligations imposed on him by the licence, and

(e) where the licensee, in the opinion of the Commission has made default in complying with a direction given by the Commission.

(3) Where in its opinion the public interest so requires, the Commission may, on the application or with the consent of the licensee, and if the licensee is not a local authority, after consulting the local authority concerned, revoke a licence as to the whole or any part of the area of transmission or supply upon such terms and conditions as it thinks fit.

(4) No licence shall be revoked under sub-section (2) unless the Commission has given to the licensee not less than thirty days notice in writing, stating the grounds on which it is proposed to revoke the licence and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.

(5) The Commission may, instead of revoking the licence under sub-section (2), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and the terms and conditions so imposed shall be binding upon, and be complied with by, the licensee, and be of like force and effect as if they were contained in the licence.

24. (1) Where the Commission revokes a licence, under sub-section (2) of section 23 the following provisions shall apply, namely:-

Provisions
where
licence is
revoked.

(a) The Commission shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect and on and with effect from that date or on and with effect from an earlier date, on which the undertaking of the licensee is sold to a purchaser in pursuance of clause (c) or is delivered to a designated purchaser in pursuance of sub-section (3), all the rights, duties, obligations and liabilities of the licensee under this Act shall cease and determine.

(b) The Commission shall invite applications for purchase of the undertaking of the licensee whose licence is revoked and determine the price and other terms and conditions of the sale of the undertaking in consultation with the licensee and the person whose application has been accepted.

(c) The Commission may by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to the person whose application has been accepted by the Commission (hereinafter in this section referred to as "the purchaser").

(2) Where an undertaking is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the undertaking determined under clause (b) of sub-section (1).

(3) Where the Commission issues any notice under clause (c) of sub-section (1) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice, the undertaking to the designated purchaser pending the payment of the purchase price of the undertaking:

Provided that in any such case, the purchaser shall pay to the licensee interest at such per cent not exceeding the Reserve Bank lending rate prevailing at the time of delivery of the undertaking as the Commission may decide, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price.

(4) (a) Where for any reason no sale of the undertaking has been effected under sub-section (1), the State Government shall-

(i) by an order published in the *Official Gazette*, authorise any person or body of persons to take over the management of the undertaking of a licensee for such period not exceeding five years from the date of revocation as may be specified in the order,

(ii) endeavour to sell the undertaking during the aforesaid period.

(b) On the issue of the order authorising the taking over of the management of the undertaking -

(i) all persons in-charge of the management immediately before the issue of the order shall be deemed to have vacated their offices; and

(ii) the person or body of persons authorised to take over (hereinafter in this section referred to as "the authorised person or body") shall take all such steps as may be necessary to take into his or their custody or control all the property, effects and actionable claims to which the undertaking is or appears to be entitled and all the property and effects of the undertaking shall be deemed to be in the custody of the persons or, as the case may be, body of persons as from the date of the order;

(iii) where the undertaking of a licensee is a company, the persons authorised to take over the management of the undertaking shall, for all purposes, be the directors of the undertaking duly constituted under the Companies Act, 1956 and shall alone be entitled to exercise the powers of the directors of the undertaking whether such powers are derived from the said Act or the memorandum or articles of association of the undertaking or from any other source;

(iv) subject to the control of the State Government, the authorised person or body shall take such steps as may be necessary for the purpose of effectively managing the business of the undertaking and shall exercise such other powers and have such other duties as may be prescribed;

(v) the authorised person or body shall, notwithstanding anything contained in the memorandum or articles of association of the undertaking, exercise his or their functions in accordance with such directions as may be given by the State Government.

(c) Where the undertaking of the licensee is not sold within the period specified in clause (a), the undertaking shall vest in the State Government free from all encumbrances.

(d) Where the undertaking of the licensee is sold within the period specified in the order issued under sub-clause (i) of clause (a), the order shall be deemed to have been rescinded from the date of sale.

(e) Where an undertaking of the licensee vests in the State Government under clause (c), there shall be paid to the licensee such book value of the undertaking as exists at the time of vesting.

25. (1) No licensee shall, at any time, without the previous consent in writing of the Commission, acquire by purchase or otherwise the licence or the undertaking of, or associate himself so far as the business of transmitting, distribution or supply of electricity is concerned with any person transmitting, distributing or supplying under any other licence or intending to transmit, distribute or supply electricity :

Restrictions
on licensees.

Provided that, before applying for such consent, the licensee shall give not less than one month's notice of such application to the local authority in area of supply of electricity by the licensee if the licensee holds a supply licence and the area in which such other person supplies or intends to supply electricity.

(2) The licensee shall not, at any time, assign his licence or transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the Commission.

(3) Any agreement relating to any transaction of the nature described in sub-section (1) or sub-section (2), without the consent of the Commission, shall be void.

(4) A holder of a licence for supply or transmission of electricity may, unless expressly prohibited by the terms of his licence or by a general or special order passed by the Commission, enter into arrangements for the purchase of electricity from —

(a) the holder of a licence for supply of electricity which permits the holder to supply electricity to other licensees for distribution by them; and

(b) any supplier of electricity in accordance with the regulations prescribed by the Commission governing the power purchase procurement process.

26. (1) Notwithstanding anything contained in this Act, the State Government may by an order permit-

Sanction for
supply of
electricity.

(i) a person to supply electricity for which a specific policy has been framed by the State Government;

(ii) an industry to supply electricity from its captive power plant to its group companies; or

(iii) a group of consumers to obtain electricity from a common supply point.

(2) Where the State Government is of the opinion that circumstances exist wherein it is necessary to supply electricity to the public in an area, it may, on an application made to it in such form and on payment of such fees, as may be prescribed, by an order in writing grant sanction to a person to engage temporarily, for a period not exceeding six months, in the business of supplying electricity to the public in such area and in accordance with such conditions as may be specified in the order.

CHAPTER V

REORGANISATION OF GUJARAT ELECTRICITY BOARD

Reorganisa-
tion of
Gujarat
Electricity
Board.

27. (1) Notwithstanding anything contained in the Electricity (Supply) Act, 1948, the State Government may from time to time by notification in the *Official Gazette*, transfer with effect from such date (hereinafter in this section referred to as "the specified date"), such powers, functions and duties of the Gujarat Electricity Board constituted under section 5 of the said Act (hereinafter in this section referred to as "the Board"), as may be specified in the said notification -

(a) in so far as they relate to generation of electricity to such company or companies registered under the Companies Act, 1956, the main object of which is the generation of electricity (hereinafter in this section referred to as "the generating company"),

(b) in so far as they relate to transmission of electricity to such company or companies, the main object of which is the transmission of electricity (hereinafter in this section referred to as "the transmitting company"),

(c) in so far as they relate to distribution and supply of electricity to such company or companies, the main object of which is the distribution and supply of electricity (hereinafter in this section referred to as "the distributing and supplying company"),

(d) in so far as they relate to the powers, functions and duties of a State Transmission Utility specified as such under section 27 B of the Indian Electricity Act, 1910 to a Government company, the main object of which is the transmission of electricity (hereinafter in this section referred to as "the Government company").

(2) (a) On the specified date such property, movable and immovable, assets and all interests of whatever nature or kind therein which relate to the powers, functions and duties of the Board transferred under the notification issued under sub-section (1) and which vest in the Board immediately before the specified date shall stand transferred to and shall vest in the State Government subject to all limitations, conditions and rights of any person, body or authority, in force or subsisting immediately before the specified date.

(b) All property, movable and immovable, assets and all interests of whatever nature or kind therein which stand vested in the State Government by virtue of clause (a), shall immediately after they have so vested stand transferred to and vest in the generating company, the transmitting company, the distributing and supplying company or, as the case may be, the Government company to which the powers, functions and duties are transferred by the notification issued under sub-section (1).

(c) Where by a notification issued under sub-section (1), the powers, functions and duties of the Board are transferred to the generating company, the transmitting company, the distributing and supplying company or, as the case may be, the Government company, an officer authorised by the State Government in this behalf shall

identify the property, movable and immovable, assets and interests therein which by virtue of clause (b) vest in the generating company, the transmitting company, the distributing and supplying company or, as the case may be, the Government company and specify the same by an order published in the *Official Gazette*.

(3) Where by a notification issued under sub-section (1), the powers, functions and duties of the Board are transferred to the generating company, the transmitting company, the distributing and supplying company or, as the case may be, the Government company, the State Government shall, by a notification in the *Official Gazette*, allot to the generating company, the transmitting company, the distributing and supplying company or, as the case may be, the Government company, having regard to the powers, functions and duties so transferred and properties, assets and interests therein vested in such company under clause (b) of sub-section (2), -

(a) rights, liabilities and obligations of the Board (including those arising under any agreement or contract, existing on the specified date),

(b) contracts made with and instruments executed by or on behalf of the Board and subsisting on the specified date,

(c) proceedings and matters pending before the Board, on the specified date,

(d) suits and other legal proceedings pending on the specified date in or to which the Board was a party,

(e) officers and servants in the employment of the Board on the specified date and on such allotment the following consequences shall ensue with effect on and from the specified date, namely:-

(i) the rights, liabilities and obligations shall be deemed to be the rights, liabilities and obligations of the company to which they are allotted;

(ii) the contracts and instruments shall be deemed to have been made with or executed with or by or on behalf of the company to which they are allotted and shall have effect accordingly;

(iii) the proceedings and matters shall be deemed to have been transferred to the company to which they are allotted;

(iv) in suits and legal proceedings allotted to the company, the company shall be deemed to be substituted for the Board;

(v) every officer and servant allotted to the company shall become the officer and servant of the company subject to the same rights and privileges as to salary, pension, gratuity and other matters as would have been admissible to him if the powers, functions and duties of the Board had not been transferred to the company and shall continue to do so unless and until his employment in the company is duly terminated or until his remuneration and terms and conditions of employment are duly altered by the company.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law for the time being in force, the transfer of any services of any officer or servant employed in the Board to the company under sub-section (3), shall not entitle such officer or servant to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947.

Explanation. - For the purpose of this section, "company" means a company registered under the Companies Act, 1956. 1 of 1956.

Furnishing
of
information
regarding
establishment
of
generating
stations.

28. Notwithstanding anything contained in any law for the time being in force, any person who establishes a generating station or acquires a generating station, or extends or replaces major unit of plant or works pertaining to generation of electricity in a generating station, shall furnish information in such form as may be prescribed, to the State Government and the Commission within seven days of such establishment, acquisition, extension or replacement.

CHAPTER VI

TARIFFS

Tariffs.

29. (1) Notwithstanding anything contained in any law for the time being in force, the tariff for supply of electricity by means of grid, or by wholesale or retail or in bulk, shall be determined in accordance with the provisions of this Chapter.

(2) The Commission shall by regulations, made in that behalf lay down the terms and conditions for fixation of tariff to be charged by a licensee or by the Board constituted under section 5 of the Electricity (Supply) Act, 1948 (hereinafter in this section referred to as "the said Act") 54 of 1948. having regard to the following principles, namely:-

(a) in relation to tariff to be charged by a licensee, the principles provided in the Sixth Schedule to the said Act;

(b) in relation to tariff to be charged by the Board, the principles provided in sections 46, 49 and 59 of the said Act;

Provided that where the Commission lays down the terms and conditions which are not consistent with the principles referred to in clause (a) or (b), it shall record its reasons therefor, in writing;

(c) the tariff reflects the cost of supply of electricity at appropriate levels of efficiency;

(d) the interests of the consumers;

(e) the generation, transmission, distribution and supply of electricity are conducted on commercial principles;

(f) national power plans formulated by the Central Government from time to time and

(g) the consumer is required to pay within a period of five years from the date of commencement of this Act, not less than sixty-seven per cent. of the cost of supply of electricity.

(3) The Board and a licensee which or who is authorised to transmit, sell, distribute or supply electricity wholesale, bulk or retail in the State shall observe the methodologies and procedures specified by the Commission from time to time in calculating the expected revenue from charges which the Board or licensee is permitted to recover and in determining tariffs to collect those revenues.

Explanation:- For the purpose of this sub-section, the expression "the expected revenue from charges" means the total revenue which the licensees are expected to recover, from charges for the level of forecast of supply used in the determination under sub-section (4), in any financial year, in respect of goods or services supplied to customers.

(4) The Commission, while laying down terms and conditions under this section,

(a) may classify consumers according to the consumer's load factor, power factor, total consumption of electricity during any specified period or the time at which supply of electricity is required, the nature of the supply and treat those classes differently if there is rational relation between such classification and the object to be achieved;

(b) shall be just and reasonable and shall promote efficiency in the supply and consumption of electricity; and

(c) shall act in accordance with all other relevant provisions of the Act, regulations and conditions of licence.

(5) (a) The Board and every licensee shall furnish to the Commission, at such time and in such manner, as the Commission may prescribe by regulations, full details of, its or his calculations, for the ensuing financial year, of the expected aggregate revenue from charges, which in its or his opinion are permitted to be recovered by it or him under the tariff and such further information, as the Commission may require to assess such calculations.

(b) The Board and the licensee shall furnish to the Commission details of the tariff or revision of a tariff proposed by it or him and shall furnish such further information as the Commission may require.

(c) On receipt of the proposal from a licensee for fixation of tariff at the time of initial granting a licence or the proposal from the Board or a licensee for revision of tariff, the Commission shall invite objections and suggestions from the Board or, as the case may be, the licensee and other interested persons with respect to the tariff proposed to be determined by the Commission and after considering objections and suggestions received by it, determine the tariff to be charged by the Board or the licensee.

(6) The Board or, as the case may be, the licensee shall publish the tariff determined or revised by the Commission in a daily newspaper having circulation in the area of supply of electricity, or, as the case may be, in the area of transmission of electricity by the Board or, as the case may be, the licensee and the tariff shall take effect on the expiry of seven days from the date of such publication.

(7) No tariff determined under clause (c) of sub-section (5) shall be revised more than once in any financial year, except the charges (including charges for any fuel surcharge) expressly permitted to be revised by the Commission.

Financial
assistance to
licensees by
State
Government.

30. (1) The State Government may provide financial assistance to licensees on such terms and conditions as it thinks fit to impose, in the following manner, namely:-

- (a) Grant of subventions;
- (b) Grant of loans,
- (c) Guarantee of repayment by a licensee of the amount of loan, or interest on loan or both the loan and the interest thereon.

(2) The State Government may, in such circumstances as may be prescribed and in consultation with the Commission, by an order in writing direct the Board or the licensee to charge for supply of electricity to such class of person or persons in such area at such subsidised rates as may be specified in the order.

(3) (a) The State Government shall reimburse the Board or the licensee the difference between the rates of tariff determined by the Commission and the subsidised rates charged by the Board or the licensee for supply of electricity in accordance with the directions given to it under sub-section (2).

(b) Such difference shall be reimbursed within a period of six months from the date of submission of its claim.

CHAPTER VII

COMMISSION'S POWER TO PASS ORDERS AND ENFORCE DECISIONS

Orders for
preventing
contraventions

31. (1) Where the Commission is satisfied that a licensee is contravening, or is likely to contravene any of the provisions of this Act or rules or regulations made thereunder or any of the conditions of the licence, it shall either by an interim order under sub-section (4) or by a final order under section 32, issue such directions as it deems proper for preventing such contravention.

(2) In determining whether it is appropriate that an interim order be made, the Commission shall have regard, in particular to-

(a) the extent to which the contravention or likely contravention by the licensee may affect the purposes of this Act;

(b) the extent to which any person is likely to sustain loss or damage in consequence of such contravention before a final order is made; and

(c) whether there is any remedy available to prevent such contravention.

(3) If the Commission proposes to make an interim order, it shall give notice of the proposed interim order to the licensee setting out therein the following, namely:-

(i) the contravention that the proposed order is intended to prevent;

(ii) the acts or omissions which, in its opinion constitute such contravention;

(iii) the facts which in its opinion, justify the making of the proposed order;

(iv) the effects of the proposed order; and

(v) the period, being not less than fifteen days from the date of notice, within which the licensee may show cause why the proposed order be not made.

(4) The Commission may after considering the reply of the licensee to the notice, if any, make such interim order as it thinks fit at any time after the expiry of the period specified in the notice, if the Commission has reason to believe that,—

(a) the licensee to whom the notice was given has contravened or is contravening or is likely to contravene any of the provisions of this Act or rules or regulations made thereunder or any condition of licence; and

(b) the order is necessary for the purpose of preventing such contravention.

(5) An interim order,—

(a) shall require the licensee to do, or abstain from doing, such things as are specified in the order;

(b) shall take effect from such date, as is specified in the order; and

(c) shall cease to have effect on such date as is specified in the order unless the order is rescinded earlier.

Provided that where the Commission has commenced the procedure for making the interim order as final order before the cesser of the interim order, the interim order shall not cease to have effect and shall continue to be in force till a final order is made.

(6) Where the Commission has made an interim order, it shall as soon as possible thereafter,—

(a) serve a copy of the order on the licensee and publish the same in such manner as it deems fit, and

(b) commence proceedings to declare the interim order to be a final order in accordance with section 32.

32. (1) If the Commission proposes to make a final order or to declare an interim order to be a final order, the Commission shall give notice of the proposed final order to the licensee —

Final
orders for
preventing
contraventions.

(a) stating that it proposes to make the final order or as the case may be, declare the interim order to be a final order;

(b) setting out the matters referred to in sub-section (3) of section 31 in respect of the proposed final order; and

(c) specifying the period being not less than thirty days from the date of the notice within which the licensee may show cause why the proposed order may not be made.

(2) The Commission may, after considering the reply of the licensee to the notice, pass such final order as it thinks fit.

(3) Where the Commission has made a final order, it shall, as soon as possible thereafter, serve a copy of the order on the licensee and publish the same in such manner as deemed fit.

(4) The Commission shall, as soon as practicable, after making a final order, require the licensee to do or abstain from doing such things as are specified in the order.

Power to
modify or
revoke final
order.

33. (1) The Commission may, of its own motion within one year or on an application made to it by a licensee within six months from the date of the final order, modify or revoke the final order.

(2) The Commission shall, before making an order under sub-section (1), give a notice of not less than thirty days to the licensee to show cause as to why the final order may not be modified or revoked.

(3) The Commission may, after considering the reply of the licensee to the notice modify or revoke the final order and inform the licensee of its decision.

Enforcement
of orders.

34. An order made by the Commission under section 31, 32 or 33 shall be enforced as if it were a decree of a civil court.

Co-
operation of
police.

35. (1) The District Magistrate and the District Superintendent of Police having jurisdiction in the area concerned shall so far as may be, co-operate by themselves or through their subordinates, with the Commission for carrying into effect and enforcing the provisions of this Act.

(2) It shall be the duty of every police officer to communicate without any delay to the Commission any information which he receives of a design to commit or the commission of any offence under this Act, rule or regulation and to assist the Commission or any officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Commission or in such officer or servant.

CHAPTER VIII

STANDARDS OF PERFORMANCE AND DISCLOSURE OF INFORMATION BY LICENSEES

Advisory
Committee.

36. (1) The Commission shall by notification in the *Official Gazette*, and in consultation with the State Government constitute an Advisory Committee.

(2) (a) The Advisory Committee shall consist of not less than five and not more than fifteen members.

(b) The constitution of the Committee shall be as follows :-

(i) The Chairperson and members of the Commission shall be the Chairperson and members of the Committee, *ex-officio*.

(ii) Other members of the Committee shall be appointed by the Commission from amongst persons who are interested in the electricity industry in the State.

(3) The Committee shall meet at least once in every three months.

(4) The term of office of the members of the Committee shall be three years.

(5) Subject to sub-section (3), the Committee shall meet at such times and places and observe such rules of procedure in regard to transaction of its business at its meetings as may be determined by it.

(6) The Committee shall advise the Commission-

(a) on questions of policy relating to electricity industry, and

(b) on any matter including the matter relating to quality, continuity and extent of the service of transmission or supply of electricity provided by a licensee or compliance of terms and conditions of licence by him which the Commission may refer to it for advice.

37. (1) The Commission may, after consultation with the Advisory Committee, the licensees and persons likely to be affected, by an order,-

Performance standards of supply of electricity.

(a) lay down-

(i) such standards of overall performance in connection with the supply of electricity as, in its opinion is necessary for the licensee to achieve,

(ii) such standards in connection with efficient use of electricity by consumers as in its opinion are necessary;

Provided that such standards, shall, so far as may be, consistent with the standards set up for the electricity industry by -

(i) Central Electricity Authority constituted under the Electricity (Supply) Act, 1948,

(ii) Central Board of Irrigation and Power,

(iii) Bureau of Indian Standards established under the Bureau of Indian Standards Act, 1986,

(iv) Central Electricity Regulatory Commission established under the Electricity (Regulatory Commissions) Act, 1998,

(b) prescribe power system operation codes including grid codes and distribution and supply code to be complied with by licensees,

(c) prescribe safety regulations in the use of electricity and for operation of the power system.

(2) The Commission may lay down different standards and codes for different licensees.

(3) The Commission shall publish standards, codes and regulations laid down under sub-section (1) in such form and in such manner as it thinks fit.

38. The Commission may, after consultation with the Advisory Committee, licensees supplying electricity and persons likely to be affected, prescribe by regulations the circumstances in which such licensees shall inform consumers of electricity of their rights in relation to supply of electricity to them and compensation to be paid by such licensees to consumers for any delay or default by such licensees in supplying electricity to the consumers.

Information on Standards of Performance.

54 of 1948.

63 of 1986.

14 of 1998.

Information
with respect
to level of
performance.

39. (1) The Commission may from time to time collect information with respect to:-

- (a) the fines or penalties levied on licensees under this Act;
- (b) the levels of performance achieved by such licensees in connection with the transmission and supply of electricity; and
- (c) the levels of performance achieved by such licensees in connection with the efficient use of electricity by consumers.

(2) For the purposes of sub-section (1), each licensee shall, on or before such date in each year as may be specified by the Commission in a direction issued in that behalf, furnish to the Commission the following information with respect to each standard laid down under clause (a) of sub-section (1) of section 37, namely:-

- (a) the number of cases in which penalties are levied and the aggregate value thereof, and
- (b) such information regarding the level of performance achieved by a licensee as required by the direction.

(3) The Commission may at least once in every year publish in such form and in such manner as it may deem fit such of the information collected by or furnished to it under this section as deemed fit.

Restriction
on
Disclosure
of
Information.

40. (1) Subject to the provisions of this Act, no information relating to business of generation, transmission or distribution and supply of electricity carried on by any person shall be disclosed by the Commission without the consent of the person so long as the business is carried on if such information-

- (a) is obtained by the Commission by or under this Act, and
- (b) is confidential in nature.

(2) The restriction imposed by sub-section (1) shall not apply to the disclosure of such information-

- (a) in any suit, prosecution or other legal proceeding,
- (b) for the purposes of the State,
- (c) before any authority established by law, or
- (d) in public interest; or
- (e) in the annual report referred to in section 43.

CHAPTER IX

ACCOUNTS, AUDIT AND REPORTS

Budget of
Commission.

41. The Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Commission and forward the same to the State Government.

Accounts
and audit of
Commission.

42. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by

him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

43. (1) The Commission shall prepare once every year in such form and at such time as may be prescribed, an annual report including a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government. Annual report of Commission.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before the State Legislature.

CHAPTER X

ARBITRATION AND APPEALS

26 of 1996. 44. (1) (a) Notwithstanding anything contained in the Arbitration and Conciliation Act, 1996 any dispute arising between licensees shall be referred to the Commission. Arbitration by Commission.

(b) The Commission may proceed to act as arbitrator and make an award or nominate an arbitrator to adjudicate such dispute.

26 of 1996. (c) Subject to the provision of this section, the provisions of the Arbitration and Conciliation Act, 1996, shall apply to arbitration under this section.

(2) Where an award is made by the arbitrator appointed by the Commission it shall be filed before the Commission and the Commission shall pass such order as deemed fit including an order-

(a) confirming and enforcing the award,

(b) setting aside or modifying the award, or

(c) remitting the award to the arbitrator for reconsideration.

(3) An award made by the Commission under sub-section (1) or an order passed by the Commission under sub-section (2) shall be enforceable as if it were a decree of a civil court.

(4) The Commission, or as the case may be, an arbitrator, may at any time before the commencement or during the pendency of proceedings under sub-section (1) make such interim order as the Commission or, as the case may be, the arbitrator, deems fit.

Constitution
of Tribunal.

45. (1) The State Government shall constitute a Tribunal consisting of two members to be appointed by the State Government on the recommendations of the Selection Committee constituted under section 6 to discharge the functions conferred on the Tribunal by or under this Act.

(2) Out of two members,-

(a) one shall be a person who is or has been a Judge of the High Court to be appointed in consultation with the Chief Justice of the High Court, who shall be the President, and

(b) the other shall be a person who has held the post not below the rank of the Secretary to the State Government or a post equivalent to the Secretary and who has such experience as may be prescribed.

(3) The provisions of section 6 shall *mutatis mutandis* apply for the purpose of selecting members of the Tribunal referred to in clause (b) of sub-section (2) as they apply for the purpose of selecting members of the Commission.

(4) The term of office, salary and allowances payable to, and other conditions of service of, the members of the Tribunal shall be such as may be prescribed.

(5) The State Government may terminate the appointment of the member of the Tribunal before the expiry of the term of his office if such member -

(a) is adjudged an insolvent, or

(b) engages during his term of office in any paid employment outside the duties of his office, or

(c) is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the State Government or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member, or

(d) is in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body, or

(e) is convicted of an offence involving moral turpitude.

(6) Subject to such conditions and limitations as may be prescribed, the Tribunal shall have power to award cost and the amount of such costs shall be recoverable from the person ordered to pay the same as arrears of land revenue.

(7) Subject to the previous sanction of the State Government, the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which the Tribunal shall sit) and the disposal of its business, make regulations consistent with the provisions of this Act and the rules.

(8) The regulations made under sub-section (7) shall be published in the *Official Gazette*.

5 of 1908. 46. (1) For the purpose of exercising its jurisdiction under this Act, the Tribunal shall have the same powers as are vested in the civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:- Powers of Tribunal.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) issuing commissions for the examination of witnesses;

(d) such other matters as may be prescribed.

36 of 1963. (2) The Tribunal shall be deemed to be a court for the purpose of section 5 of the Limitation Act, 1963.

47. (1) An appeal against the order of the Commission shall lie to the Tribunal in the following cases, namely:- Appeals against the orders of Commission.

(a) an order refusing the grant of a licence under section 20,

(b) an order revoking a licence under section 23 except with the consent of the licensee,

(c) an order refusing the consent under section 25,

(d) an interim order under section 31,

(e) a final order under section 32,

(f) an order not to modify or revoke final order under section 33,

(g) an award made by the Commission under sub-section (1) or an order passed by the Commission under sub-section (2) of section 44.

(2) Subject to the provisions of sub-section (4), no appeal shall be entertained unless it is filed within sixty days from the date of order appealed against.

(3) The Tribunal may admit an appeal after the period of limitation specified in sub-section (1), if the appellant satisfies the Tribunal that he had sufficient cause for not filing appeal within such period.

36 of 1963. (4) In computing the period of limitation the provisions of sections 4 and 12 of the Limitation Act, 1963 shall so far as may be, apply.

xxxvi of 1959. (5) Notwithstanding anything contained in the Bombay Court Fees Act, 1959, an appeal under this section shall bear a court fee stamp of such value as may be prescribed.

48. Every order passed under this Act or the rules or regulations made thereunder by the Commission or any officer appointed by it, subject to appeal or by the Tribunal shall be final and shall not be called in question in any civil court. Finality of decision of Commission.

Explanation.—For the purposes of sections 48 and 49, the civil court means the courts subordinate to the High Court.

49. No civil court shall have jurisdiction to deal with or decide any question which the Commission or any officer appointed by it or the Tribunal is empowered to deal with or decide by or under this Act. Bar of jurisdiction of civil court.

CHAPTER XI

OFFENCES AND PENALTIES

Penalty for carrying on business of transmission or supplying of electricity without licence.

50. Whoever carries on business of transmitting or supplying electricity in the State without a licence in contravention of section 19 shall on conviction be punished with imprisonment which may extend to six months or with fine not exceeding five lakhs rupees or with both and in the case of a continuing offence with an additional fine not exceeding twenty thousand rupees for every day after the first, during which the offence continues.

General penalty.

51. Where a licensee or any other person fails without reasonable excuse, to comply with any order, direction or requisition lawfully made or given under any provisions of this Act or any rule or regulation made thereunder, he shall on conviction be punished with imprisonment which may extend to three months or with fine not exceeding two lakh rupees or with both and in the case of a continuing offence with an additional fine not exceeding ten thousand rupees for every day after the first, during which the offence continues.

Offences by companies.

52. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), wherein an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purpose of this section-

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

Cognisance of offences.

53. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under sections 50 and 51 shall be cognisable 2 of 1974. by the Metropolitan Magistrate or the Magistrate of the First Class and no such Magistrate shall take cognisance of the offence except on a complaint in writing made by an officer of the Commission generally or specially authorised in this behalf by it.

(2) Notwithstanding anything contained in section 200 of the said Code, it shall not be necessary in respect of the offences referred to in sub-section (1), to examine the authorised officer of the Commission when the complaint is presented in writing.

54. (1) The Commission may, either before or after the institution of proceedings, for any offence punishable under section 50 or 51 accept from any person charged with such offence by way of composition of the offence a sum not exceeding –

Compounding
of offences.

(i) five lakh rupees, where the offence charged is under section 50, and

(ii) two lakh rupees, where the offence charged is under section 51.

(2) On payment of such sum as determined by the Commission under sub-section (1), no further proceedings shall be taken against the accused person in respect of that offence.

CHAPTER XII

MISCELLANEOUS

55. The fees, fines, charges and such other sums due to the Commission under this Act shall be recoverable as arrears of land revenue.

Recovery of
fees, fines
and charges
etc.

56. The Commission or the Court imposing fine under this Act may direct that the whole or any part thereof shall be applied towards payment of the costs of the proceedings.

Application
of fine.

57. All proceedings before the Commission and the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

XLV of
1860.

Proceedings
before
Commission
and
Tribunal.

58. All members and officers and servants of the Commission, members of Selection Committee and the member of the Tribunal shall when acting or purporting to act in pursuance of the provisions of this Act or any rule or regulation made thereunder, be deemed to be a public servant within the meaning of Section 21 of Indian Penal Code.

XLV of
1860.

Members,
officers and
servants of
the
Commission,
members of
Selection
Committee
and
members of
Tribunal to
be public
servants.

59. No suit, prosecution or other legal proceedings shall lie against the Commission or Tribunal or any members, officer or servant of the Commission or Tribunal for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or rules or regulations made thereunder.

Protection
of action
taken in
good faith.

60. The State Government may give directions not inconsistent with the provisions of this Act to the Commission on matters of policy including the matters relating to planning and co-ordination of the development of the electricity industry and the Commission shall comply with such directions:

Powers of
the State
Government
to give
directions.

Provided that the State Government shall not give any directions to the Commission in respect of fixation of tariff.

Power of
State
Government
to make
rules.

61. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the salaries and allowances payable to and other conditions of service of members of Commission under sub-section (4) of section 7;

(b) the form and manner in which and the authority before whom the oath of office and secrecy shall be subscribed by the Chairperson and members under sub-section (5) of section 7;

(c) the period of notice of resignation to be given in writing under sub-section (3) of section 10;

(d) other matters in respect of which the Commission shall have the powers of civil court under paragraph (g) of sub-section (1) of section 18;

(e) the form of application for sanction of supply of electricity and the fees to be paid thereof under section 26;

(f) the form and manner in which the information to be furnished regarding generation of electricity under section 28;

(g) the circumstances in which the State Government may direct the Board or the licensee to charge at subsidised rates for the supply of electricity under sub-section (2) of section 30;

(h) the form in which and the time at which the Commission shall prepare its budget under section 41 ;

(i) the form in which annual statement of accounts shall be prepared by the Commission under section 42;

(j) the form in which and the time at which the Commission shall prepare the annual report under sub-section (1) of section 43;

(k) the experience in the post of the Secretary or equivalent post under clause (b) of sub-section (1) of section 45;

(l) the conditions and limitations with which the Tribunal can award cost under sub-section (6) of section 45;

(m) the term of office, salary and allowances payable to and other conditions of service of the members of the Tribunal under sub-section (3) of section 45;

(n) the value of court fee stamp which an appeal shall bear under sub-section (5) of section 47;

(o) any other matter which is to be or may be prescribed under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any recession or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

62. (1) The Commission may with the previous approval of the State Government, by notification in the *Official Gazette*, make regulations not inconsistent with the Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

Power of
Commission
to make
regulations.

(2) In particular, and without prejudice to the generality of the foregoing provisions such regulations may provide for all or any of the following matters, namely:-

(a) the time and the place of the meetings of the Commission and the procedure to be followed in regard to the transaction of business at such meetings;

(b) the manner of recruitment of, the salary and allowances payable to and other conditions of service of the secretary, officers and other employees of the Commission, under sub-section (2) of section 13;

(c) the terms and conditions of consultants under section 14;

(d) the form of application for grant of a licence and fees to be paid, therefor under sub-section (1) of section 20;

(e) the manner in which and particulars with which a notice is to be published under clause (a) and the period not less than a month before the expiration of which objections if any, received are to be considered under sub-clause (i) of clause (b) of sub-section (2) of section 20;

(f) functions and obligations of the Board under the Electricity Act, 1910 and the Electricity (Supply) Act, 1948 to be undertaken by a licensee, under sub-clause (iv) of clause (b) of sub-section (3) of section 20;

(g) the manner in which and particulars with which notice of application is to be published under clause (a) of sub-section (2) of section 22;

(h) the manner in which and particulars with which proposed amendments are to be published under sub-section (3) of section 22;

(i) governing the power procurement process under clause (b) of sub-section (4) of section 25;

(j) terms and conditions for fixation of tariff to be charged by the licensee under sub-section (2) of section 29;

(k) the time at which and the manner in which the licensee shall provide the Commission the details of calculation of the expected aggregate revenue from charges, under sub-section (5) of section 29;

(l) the circumstances in which licensees shall inform consumers of electricity of their rights in relation to supply of electricity and compensation to be paid for delay or default on the part of the licensees under section 38;

(m) the procedure to be followed in adjudication under clause (c) of sub-section (1) of section 44 :

Provided that it shall not be necessary to obtain the approval of the State Government in making regulations under clause (j).

(3) In making regulations under this section, the Commission may direct that a breach thereof shall be punished with fine not exceeding five lakhs rupees and when the breach is a continuing one, with fine not exceeding twenty thousand rupees for every day during which the breach continues after conviction for first breach.

(4) All regulations made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as they State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to
remove
difficulties.

63. If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the *Official Gazette*, make such provision, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

Saving of
application
of Act.

64. Nothing in this Act shall apply to inter-State transmission or supply of electricity, and persons engaged in the business of such transmission or supply.

Insertion of
new section
58 A in Act
No. 54 of
1948.

65. In the Electricity (Supply) Act, 1948, in Chapter V, after section 58, 54 of 1948. the following section shall be inserted, namely :-

“Provisions of Chapter V not to apply to generating company. 58. A. The provisions of this Chapter shall not apply to any generating company.

Explanation.—For the purpose of this section ‘generating company’ means a generating company other than owned or controlled by the Central Government.”.

Repeal and
savings.

66. (1)(a)(i) Sections 3 to 11, 27 D and 28 of the Indian Electricity Act, 1910 (hereinafter in this sub-section referred to as “the said Act”) shall stand repealed, 9 of 1910.

(ii) Notwithstanding the repeal of the provisions of the said Act referred to in sub-clause (i) anything done or any action taken under the repealed provisions shall be deemed to have been done or taken under the corresponding provisions of this Act and

accordingly a licence granted under repealed section 3 of the said Act and in force immediately before the commencement of this Act shall be deemed to be a licence granted under section 20 of this Act and shall be valid until substituted, suspended or revoked under the provisions of this Act.

(b) Any reference to "licence" or "transmission licence" in the said Act shall be construed as a reference to a licence granted or deemed to have been granted under this Act and the reference to "licensee" or "licence holder", or "transmission licensee or transmission licence holder" in the said Act shall be construed accordingly.

54 of 1948.

(2) (a) (i) Sections 43A, 44, 45, 57A and 57B of the Electricity (Supply) Act 1948 (hereinafter in this sub-section referred to as "the said Act") shall stand repealed;

(ii) notwithstanding the repeal of the provisions of the said Act referred to in sub-clause (i), anything done or any action taken under the repealed provisions shall be deemed to have been done or taken under the corresponding provisions of this Act.

(b) Any reference to "licence" in the said Act shall be construed as reference to licence granted or deemed to have been granted under this Act and reference to "licensee" shall be construed accordingly.

14 of 1998.

(3) (a) With effect on and from such date as the State Government may, by notification in the *Official Gazette*, appoint (hereinafter in this clause referred to as "the said date") the provisions of Chapters IV and V and sections 29, 30, 33, 34, 36, 39, 57, 58 and 59 of the Electricity Regulatory Commissions Act, 1998 shall stand repealed and on such repeal, the following consequences shall ensue, namely:-

14 of 1998.

(i) on establishment of the Commission under section 3 of this Act, the Commission established under sub-section (1) of section 17 of the Electricity Regulatory Commission Act, 1998 and functioning immediately before the said date shall stand dissolved (hereinafter in this sub-clause referred to as the 'dissolved Commission') and the Chairperson and members thereof shall be deemed to have vacated their office,

(ii) all properties, moveable and immovable and assets vesting in the dissolved Commission shall stand transferred to and vest in the Commission established under sub-section (1) of section 3 (hereinafter in this sub-section referred to as the "successor Commission"),

(iii) all rights, liabilities and obligations of the dissolved Commission (including those arising under any agreement or contract) shall be deemed to be the rights, liabilities and obligations of the successor Commission,

(iv) all sums due to the dissolved Commission shall be recoverable by the successor Commission, and for the purpose of such recovery, the successor Commission shall be competent to take such measures which were competent for the dissolved

Commission to take subject to all limitations, conditions and rights or interests of any person subsisting immediately before the said date,

(v) all contracts made with and all instruments executed on behalf of the dissolved Commission shall be deemed to have been made with or by or on behalf of the successor Commission and shall have effect accordingly,

(vi) all proceedings and matters pending before the dissolved Commission or any authority of the dissolved Commission under the repealed provisions immediately before the said date shall be deemed to be transferred to the successor Commission or to such authority as the successor Commission may direct,

(vii) in all suits and legal proceedings pending on the said date in or to which the dissolved Commission was a party, the successor Commission shall be deemed to be substituted therefor,

(viii) all officers and employees of the dissolved Commission shall be the officers and employees of the successor Commission,

(ix) any reference to the dissolved Commission in any instrument shall unless a different intention appears to be construed as a reference to the successor Commission.

(b) Notwithstanding the repeal of the provisions of the said Act referred to in clause (a), but subject to consequences referred to in the said clause (a), anything done or any action taken under the repealed provisions shall be deemed to have been done or taken under the corresponding provisions of this Act.

(4) Without prejudice to the provisions contained in sub-clause (ii) of clause (a) of sub-section (1), sub-clause (ii) of clause (a) of sub-section (2) and clause (b) of sub-section (3) and subject to consequences referred thereto, section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal provided in sub-clause (i) of clause (a) of sub-section (1), sub-clause (i) of clause (a) of sub-section (2) and clause (a) of sub-section (3).

Bom. I of
1904.

Act to
override
provisions
of certain
Acts.

67. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in the provisions of the Indian Electricity Act 1910, 9 of 1910. the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commissions Act, 1998 which are not repealed by sub-clause (i) of clause (a) of sub-section (1), sub-clause (i) of clause (a) of sub-section (2) and clause (a) of sub-section (3) of section 66 for the time being in force. 54 of 1948. 14 of 1998.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Electricity Board constituted under Section 5 of the Electricity (Supply) Act, 1948 is entrusted with the functions of generation, transmission, bulk purchase and supply and distribution of electricity in most of the areas of the State. In some other areas of the State certain other companies being licensees and sanction holders, are entrusted with the functions of generation and supply of electricity under The Indian Electricity Act, 1910 and Electricity (Supply) Act, 1948 the State Government as well as the Board have powers to regulate the generation, supply and distribution of electricity by grant of consent for establishing a new generating station or acquiring an existing one and by grant of licences and sanctions for supply of electricity.

It is considered necessary to reorganise and rationalise the electricity industry in the State with a view to enhancing efficiency and financial viability in respect of generation, transmission, bulk purchase, supply and distribution of electricity and service to consumers in the State. For this purpose, it is proposed to establish an electricity regulatory commission and to reorganise the Board.

At present the Gujarat Electricity Regulatory Commission constituted under the Electricity Regulation Commissions Act, 1998 is functioning as the sole regulatory authority in the State divesting the Board and the State Government of their regulatory powers. However, the said Central Act does not provide for reorganisation of the Board. It is therefore considered necessary to replace the said Central Act by a State Act which provides not only for establishment of State Electricity Regulatory Commission and for replacement of the existing Commission but also for restructuring of the Gujarat Electricity Board. The essence of restructuring is to achieve the balance required to be maintained in regard to competitiveness and efficiency of the electricity industry on the one hand and ensuring fair deal to the consumers on the other. It is proposed to entrust the Commission so established certain functions, important of which are as follows:-

- (i) Regulation of purchase, transmission, distribution, supply and utilisation of electricity.
- (ii) Determination of tariff for electricity, wholesale, bulk, grid or retail;
- (iii) regulating the working of the licensees and ensuring that their working is efficient, economical and equitable;
- (iv) setting up and enforcing standards in electricity industry in the State including standards relating to safety, quality, continuity and reliability of service;
- (v) promoting competitiveness in the electricity industry in the State and
- (vi) adjudicating upon the disputes and differences between the licensees.

The demand for electricity in the State is likely to increase manifold and therefore it would be necessary to generate, transmit, distribute and supply electricity on a very large scale and for that purpose huge capital investment would be required. It is therefore proposed to restructure the

Gujarat Electricity Board by dividing its functions of generation, transmission and distribution of electricity and entrusting them separately to independent companies established under the Companies Act, 1956 and to allow the Board to continue its activity of bulk purchase and supply of electricity. Such functions alongwith the related property of the Board are proposed to be transferred to the companies gradually.

With a view to create conducive atmosphere for augmenting electricity generating capacity in the State, it is proposed to remove the restriction imposed under the Electricity (Supply) Act, 1948 by deleting certain provisions of that Act relating to Generating Company.

It is also considered necessary to entrust to the State Government the function of granting sanction for supply of electricity temporarily for a period not exceeding six months to an area where it is urgently needed.

It is further considered necessary to empower the State Government to permit a person to supply electricity for which a specific policy has been framed by the State Government or an industry to supply electricity from its captive power plant to its group of companies or to a group of consumers to obtain electricity from a common supply point.

This Bill seeks to achieve the aforesaid objects.

Following notes on clauses explain the important provisions of the Bill:—

Clause 1.— This clause relates to short title, extent and commencement.

Clause 2.— This clause defines certain terms used in the Act.

Clause 3.— This clause provides for establishment and incorporation of Gujarat Electricity Regulatory Commission.

Clause 5.— This clause provides for constitution of the Commission.

Clause 6.— This clause provides for constitution of Selection Committee and its functions.

Clause 7.— This clause provides for term of office and conditions of service of members of the Commission.

Clause 9.— This clause provides for disqualifications of members of Commission.

Clause 10.— This clause provides for removal and resignation of members of the Commission.

Clause 12.— This clause provides for meeting of the Commission.

Clause 13.— This clause provides for appointment of secretary, officers and employees of the Commission.

Clause 14.— This clause empowers the Commission to appoint consultants.

Clause 17.— This clause provides for the functions to be performed by Commission.

Clause 18.— This clause provides for powers of the Commission.

Clause 19.— This clause imposes prohibition against carrying on the business of transmission or supply of electricity without licence and prohibits after specified date, the supply of electricity by a licensee without connecting a meter.

Clause 20.— This clause empowers the Commission to grant licence.

Clauses 22 and 23.— These clauses provide for amendment and revocation of licence.

Clause 24.— This clause contains provisions which shall apply in a case where licence is revoked.

Clause 25.— This clause imposes restrictions on licensees.

Clause 26.— This clause empowers the State Government to grant sanctions for supply of electricity for a period of six months. It also empowers the State Government to permit supply of electricity in certain cases.

Clause 27.— This clause provides for reorganisation of the Gujarat Electricity Board and for transfer of powers, functions and duties of the Board to companies specified therein.

Clause 28.— This clause provides for furnishing information regarding establishment of generating stations or acquisition of generating stations to the State Government and to the Commission.

Clause 29.— This clause provides that the tariff for supply of electricity by a licensee shall be determined in accordance with the principles provided in Sixth Schedule to the Electricity (Supply) Act, 1948 and in case of Board, it shall be determined in accordance with the principles laid down in section 46, 49 and 59 of the said Act. It also empowers the Commission to lay down by regulation the terms and conditions for fixation of tariff to be charged by the licensee or by the Board, having regard to the factors specified therein.

Clause 30.— This clause empowers the State Government to extend financial assistance to the licensees by way of grant of subventions, loans or guarantees.

Clause 31.— This clause empowers the Commission to make interim order for preventing contraventions by licensee of any provisions of the Act or rules or regulations made thereunder or any of the conditions of licence.

Clause 32.— This clause empowers the Commission to make final order or to declare an interim order to be a final order so as to prevent contraventions of the provisions of the Act or rules and regulations made thereunder or any of the conditions of the licence.

Clause 33.— This clause empowers the Commission to modify or revoke the final order.

Clause 36.— This clause empowers the Commission to constitute an Advisory Committee in consultation with the State Government to advise the Commission on certain matters stated therein.

Clause 37.— This clause empowers the Commission to lay down performance standards for supply of electricity.

Clause 40.— This clause imposes restrictions on the Commission in respect of disclosure of information relating to business of generation, transmission, distribution and supply of electricity carried on by any person.

Clause 41.— This clause requires the Commission to prepare budget in each financial year.

Clause 42.— This clause requires the Commission to maintain proper accounts and other relevant records and to get it audited by the Comptroller and Auditor General and provides for laying of such report before the State Legislature.

Clause 43.— This clause requires the Commission to prepare an annual report and provide for laying of such report before the State legislature.

Clause 44.— This clause provides for arbitration by the Commission in respect of any dispute arising between the licensees.

Clauses 45 and 46.— These clauses provide for constitution of the Tribunal and its powers.

Clause 47.— This clause provides for appeal before the Tribunal against the order of the Commission.

Clause 49.— This clause provides for bar of jurisdiction of civil court.

Clause 50.— This clause provides for imposition of penalty for carrying on business of transmitting or supplying of electricity without a licence.

Clause 51.— This clause provides for imposition of general penalty to be imposed on a licensee or any person who fails to comply with any order, direction or requisition made or given under the provisions of the Act or any rules or regulations made thereunder.

Clause 53.— This clause provides for cognisance of offences.

Clause 54.— This clause provides for compounding of offences.

Clause 58.— This clause provides that the members, officers and servants of the Commission, members of the Selection Committee and the members of the Tribunal shall be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 59.— This clause provides for protection of action taken in good faith.

Clause 60.— This clause empowers the State Government to give directions to the Commission on matters of policy.

Clause 61.— This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly in respect of matters specified therein.

Clause 62.— This clause empowers the Commission to make regulation with the previous approval of the State Government generally for enabling it to discharge its functions under the Act and particularly in respect of matters specified therein.

Clause 63.— This clause empowers the State Government to make an order to remove any difficulty arising within the first three years in giving effect to the provisions of the Act.

Clause 64.— This clause provides for non application of Act to inter State transmission and supply of electricity and persons engaged in such transmission and supply.

Clause 66.— This clause provides for repeal of certain provisions of the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commissions Act, 1998 and the savings.

Clause 67.— This clause provides for overriding effect over provisions of certain Acts.

FINANCIAL MEMORANDUM

This Bill, if enacted and brought into force would involve following expenditure from the Consolidated Fund of the State.

1. *Sub-clause (4) of clause 7* empowers the State Government to prescribe the salary and allowances payable to the members of the Gujarat Electricity Regulatory Commission. This would involve an annual recurring expenditure to the extent of rupees twenty-five lakhs.
2. *Sub-clause (1) of clause 13* empowers the Commission to appoint Secretary, officers and other employees of the Commission. This would involve an annual recurring expenditure to the extent of rupees one crore.
3. *Clause 45* provides for constitution of a Tribunal and sub-clause (4) of clause 45 empowers the State Government to prescribe the salary and allowances payable to the members of a Tribunal. This would involve annual expenditure of recurring nature to the extent of rupees twenty-five lakhs and of non-recurring nature to the extent of rupees fifteen lakhs.

KAUSHIK PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects, namely:-

Clause 1.— Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3.— Sub-clause (1) of this Clause empowers the state Government to establish, by notification in the *Official Gazette*, the Gujarat Electricity Regulatory Commission with effect from the date as specified in that notification.

Clause 4.— This clause empowers the State Government to specify, by notification in the *Official Gazette*, any place other than Ahmedabad as the Headquarters of the Commission.

Clause 7.— (i) Sub-clause (4) of this clause empowers the State Government to prescribe, by rules, the salary and allowances payable to and other conditions of service of members of the Commission.

(ii) Sub-clause (5) of this clause empowers the State Government to prescribe by rules, the form in which and the manner in which and the authority before whom the Chairperson and members shall make and subscribe to an oath of office and of secrecy.

Clause 10.— Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the period of notice of resignation to be given by the members.

Clause 12.— Sub-clause (1) of this clause empowers the Commission to prescribe by regulations, the time and place of the meetings of the Commission, procedure to be followed in regard to the transaction of business at such meetings.

Clause 13.— Sub-clause (3) of this clause empowers the Commission to prescribe by regulations, the manner of recruitment, the salary and allowances payable to and other conditions of service, of the secretary, officers and other employees of the Commission.

Clause 14.— This clause empowers the Commission to prescribe, by regulations, the terms and conditions of appointment of consultants.

Clause 18.— Paragraph (g) of sub-clause (1) of this clause empowers the State Government to prescribe, by rules, the other matter in respect of which the Commission shall have the powers of a civil court.

Clause 19.— Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date from which the licensee shall not supply electricity to the consumer without connecting ameter.

Clause 20.— (i) Sub-clause (1) of this clause empowers the Commission to prescribe by regulations, the form of application for grant of a licence and fees to be paid thereof.

(ii) Paragraph (a) of sub-clause (2) of this clause empowers the Commission to prescribe by regulations, the manner in which and particulars with which a notice for application for licence is to be published.

(iii) Proviso to sub-paragraph (i) of paragraph (b) of sub-clause (2) of this clause empowers the Commission to prescribe by regulations the period before the expiration of which objections are to be considered.

(iv) (a) Paragraph (b) of sub-clause (3) of this clause empowers the Commission to prescribe by regulations the conditions to be included in the licence requiring a licensee to do certain things specified therein.

(b) Sub-paragraph (iv) of paragraph (b) of sub-clause (3) of this clause empowers the Commission to prescribe, by regulations, the functions and obligations of the Board under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 to be undertaken by a licensee.

Clause 22.— (i) Sub-clause (2) of this clause empowers the Commission to prescribe, by regulations, the manner in which and particulars with which notice of application proposing an amendment in the licence is to be published.

(ii) Sub-clause (3) of this clause empowers the Commission to prescribe, by regulations, the manner in which and particulars with which the proposed amendments in licence are to be published.

Clause 24.— Sub-paragraph (i) of paragraph (a) of sub-clause (4) of this clause empowers the State Government to authorise, by an order published in the *Official Gazette*, any person or body of persons to take over the management of undertaking of the licensee.

Clause 26.— Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form in which an application may be made by a person for sanction for supply of electricity and the fees on payment of which such sanction may be granted.

Clause 27.— (i) Sub-clause (1) of this clause empowers the State Government to transfer, by notification in the *Official Gazette*, with effect from such date as may be specified therein, such powers, functions and duties of the Gujarat Electricity Board, to different companies in the manner specified therein.

(ii) Paragraph (c) of sub-clause (2) of this clause empowers the State Government to specify, by an order published in the *Official Gazette*, the properties, assets and interests which by virtue of paragraph (b) vest in the generating company, the transmitting company, the distributing and supplying company, or, as the case may be, the Government company and identified by the authorised officer.

(iii) Sub-clause (3) of this clause empowers the State Government to allot, by a notification in the *Official Gazette*, the matters stated in paragraph (a) to (e) of the said sub-clause (3), to the generating company, the transmitting company, the distributing and supplying company, or, as the case may be, the Government company.

Clause 28.— This clause empowers the State Government to prescribe by rules the form in which, the person who establishes the generating station shall furnish information regarding the establishment.

Clause 29.— (i) Sub-clause (2) of this clause empowers the Commission to lay down by regulations, the terms and conditions for fixation of tariff to be charged by the licensee or by the Board.

(ii) Paragraph (a) of Sub-clause (5) of this clause empowers the Commission to prescribe by regulations, the time at which and the manner in which the licensee shall provide the information referred to therein to the Commission.

Clause 30.— Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the circumstances in which it may, by an order in writing, direct the Board or the licensee to charge the tariff at subsidised rates for supply of electricity to such class of persons.

Clause 36.— Sub-clause (1) of this clause empowers the Commission to constitute by notification in the *Official Gazette*, an Advisory Committee.

Clause 38.— This clause empowers the Commission to prescribe, by regulations the circumstances in which the licensee shall inform the consumer in respect of his right relating to supply of electricity and the compensation to be paid for delay or default by the licensee in supplying electricity.

Clause 41.— This clause empowers the State Government to prescribe by rules the form in which and the time at which the Commission shall prepare its budget.

Clause 42.— This clause empowers the State Government to prescribe by rules, the form in which the annual statement of accounts shall be prepared by the Commission.

Clause 43.— Sub-clause (1) of this clause empowers the State Government to prescribe, by rules, the form in which and the time at which the Commission shall prepare the annual report.

Clause 44.— Paragraph (c) of sub-clause (1) of this clause empowers the Commission to prescribe, by regulations, the procedure to be followed in adjudication.

Clause 45.— (i) Paragraph (b) of sub-clause (2) of this clause empowers the State Government to prescribe by rules the experience which a person shall possess for being appointed as a member of the Tribunal.

(ii) Sub-clause (3) of this clause empowers the State Government to prescribe by rules the term of office, salary and allowances payable to, and other conditions of service, of the members of the Tribunal.

(iii) Sub-clause (5) of this clause empowers the State Government to prescribe by rules, the conditions and limitations subject to which the Tribunal shall exercise the power to award the cost.

(iv) Sub-clause (6) of this clause empowers the Tribunal to make regulations for the purpose of regulating its procedure and disposal of its business.

Clause 46.— Paragraph (d) of sub-clause (1) of this clause empowers the State Government to prescribe, by rules, other matters in respect of which the Tribunal shall have powers as vested in a civil court.

Clause 47.— Sub-clause (4) of this clause empowers the State Government to prescribe by rules, the value of court fee stamp which an appeal shall bear.

Clause 61.— This clause empowers the State Government to make, by notification in the *Official Gazette*, rules generally for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2) of this clause.

Clause 62.— This clause empowers the Commission to make, by notification in the *Official Gazette*, regulation not inconsistent with the Act and the rules made therein generally for enabling it to discharge its function under the Act and particularly for all or any of the matters specified in sub-clause (2) of this clause.

Clause 63.— This clause empowers the State Government to make, by an order published in the *Official Gazette*, such provisions not inconsistent with the Act as appear to it to be necessary or expedient for removing the difficulties.

Clause 66.— Paragraph (a) of sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date from which certain provisions of the Electricity Regulatory Commissions Act, 1998 shall stand repealed.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 19th March, 2001.

KAUSHIK PATEL.

Gandhinagar
Dated the 23rd March, 2001.

T. K. DORIYA,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XLII]

WEDNESDAY, MARCH 28, 2001/CAITRA 7, 1923

Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of the publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :--

THE GUJARAT APPROPRIATION (VOTE ON ACCOUNT)

BILL, 2001.

GUJARAT BILL NO. 10 OF 2001.

A BILL

to authorise withdrawal of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of a part of the Financial Year ending on the thirty first day of March, 2002.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Appropriation (Vote on Account) Act, 2001. Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of nineteen thousand seven hundred forty -nine crore one lakh forty-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2001-2002. Withdrawal of Rs.197,49,01,48,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 2001-2002.

3. The sums authorised to be withdrawn from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

SCHEDULE
(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
1	Agriculture and Co-operation Department	Revenue	16248000	16248000
2	Agriculture	Revenue	3355183000	3355183000
		Capital	2375000	2375000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	320825000	320825000
		Capital	8122000	8122000
4	Animal Husbandry and Dairy Development	Revenue	264952000	264952000
5	Co-operation	Revenue	163323000	163323000
		Capital	88968000	88968000
6	Other expenditure pertaining to Agriculture and Co-operation Department	Capital	11778000	11778000
7	Education Department	Revenue	11540000	11540000
8	Education	Revenue	14925081000	426854000 15351935000
		Capital	4000	4000
9	Other expenditure pertaining to Education Department	Revenue	21850000	21850000
		Capital	410588000	410588000
10	Energy and Petro-Chemicals Department	Revenue	6688000	6688000
11	Tax Collection Charges (Energy and Petro-Chemicals Department)	Revenue	25350000	25350000
12	Energy Projects	Revenue	25746895000	8333000 25755228000
		Capital	68750000	68750000
13	Other expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	1250000	1250000
		Capital	1523000	1523000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		Total
			Voted	Charged on the Consolidated Fund	
1	2			3	
14	Finance Department	Revenue	26771000		26771000
		Capital	313000		313000
15	Tax Collection Charges (Finance Department)	Revenue	251483000		251483000
16	Treasury and Accounts Administration	Revenue	169635000		169635000
17	Pension and other Retirement Benefits	Revenue	5440875000	417000	5441292000
18	Other expenditure pertaining to Finance Department	Revenue	2049638000		2049638000
		Capital	11404000	42000	11446000
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue		15597333000	15597333000
		Capital		5496825000	5496825000
20	Food, Civil Supplies and Consumer Affairs Department	Revenue	28217000		28217000
21	Civil Supplies	Revenue	567982000		567982000
22	Food	Revenue	49198000		49198000
		Capital	1042000		1042000
23	Other expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	1422000		1422000
24	Forests and Environment Department	Revenue	7969000		7969000
25	Forests	Revenue	443202000		443202000
		Capital	454945000		454945000
26	Environment	Revenue	32917000		32917000
27	Other expenditure pertaining to Forests and Environment Department	Capital	6654000		6654000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
28	Governor	Revenue	8877000	8877000
29	Council of Ministers	Revenue	15471000	15471000
30	Elections	Revenue	46463000	46463000
31	Public Service Commission	Revenue	2705000	11096000
32	General Administration Department	Revenue	500775000	500775000
33	Economic Advice and Statistics	Revenue	43054000	43054000
34	Other expenditure pertaining to General Administration Department	Revenue Capital	56989291000 110360000	233000 56989524000 110360000
35	State Legislature	Revenue	36662000	393000
36	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital	489000	489000
37	Health and Family Welfare Department	Revenue	17549000	17549000
38	Medical and Public Health	Revenue	2829192000	2829192000
39	Family Welfare	Revenue	590102000	590102000
40	Other expenditure pertaining to Health and Family Welfare Department	Revenue Capital	298559000 18584000	298559000 18584000
41	Home Department	Revenue	24576000	24576000
42	Police	Revenue	2997778000	2997778000
43	Jails	Revenue	97181000	97181000
44	Transport	Revenue Capital	752454000 173333000	752454000 173333000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		Total
			Voted	Charged on the Consolidated Fund	
1	2			3	
45	State Excise	Revenue	22107000		22107000
46	Other expenditure pertaining to Home Department	Revenue Capital	273318000 205684000	125000	273443000 205684000
47	Industries and Mines Department	Revenue	11925000		11925000
48	Stationery and Printing	Revenue	172911000		172911000
49	Industries	Revenue Capital	4683751000 13146000		4683751000 13146000
50	Mines and Minerals	Revenue	70757000		70757000
51	Tourism	Revenue	67771000		67771000
52	Other expenditure pertaining to Industries and Mines Department	Revenue Capital	16750000 64323000		16750000 64323000
53	Information and Broadcasting Department	Revenue	3043000		3043000
54	Information and Publicity	Revenue	105173000		105173000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue Capital	9263000 1684000		9263000 1684000
56	Labour and Employment Department	Revenue	7202000		7202000
57	Labour and Employment	Revenue	461254000		461254000
58	Other expenditure pertaining to Labour and Employment Department	Capital	8787000		8787000
59	Legal Department	Revenue	9286000		9286000
60	Administration of Justice	Revenue	360755000	57013000	417768000
61	Other expenditure pertaining to Legal Department	Revenue Capital	16805000 7280000		16805000 7280000

No. of Vote/ Appro- priation	Services and purposes		Sums not exceeding		Total
			Voted	Charged on the Consolidated Fund	
1	2			3	
62	Legislative and Parliamentary Affairs Department	Revenue	7698000		7698000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	276000		276000
64	Narmada, Water Resources and Water Supply Department	Revenue	22083000		22083000
65	Narmada Development Scheme	Capital	4596786000		4596786000
66	Irrigation and Soil Conservation	Revenue	8601848000		8601848000
		Capital	1385458000		1385458000
67	Water Supply	Revenue	626321000		626321000
		Capital	1602750000		1602750000
68	Other expenditure pertaining to Narmada, Water Resources and Water Supply Department	Revenue	21000		21000
		Capital	23354000		23354000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	12667000		12667000
70	Community Development	Revenue	1135035000		1135035000
71	Rural Housing and Rural Development	Revenue	1389228000	667718000	2056946000
		Capital	47000000		47000000
72	Compensations and Assignments	Revenue	107768000		107768000
73	Other expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	255243000		255243000
		Capital	90786000		90786000
74	Fisheries	Revenue	96876000		96876000
		Capital	38755000		38755000
75	Other Expenditure pertaining to Ports and Fisheries Department.	Revenue	3459000		3459000
		Capital	1194000		1194000
76	Revenue Department	Revenue	46210000		46210000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		Total
			Voted	Charged on the Consolidated Fund	
1	2			3	
77	Tax Collection Charges (Revenue Department)	Revenue	233637000		233637000
78	District Administration	Revenue	268665000		268665000
79	Relief on account of Natural Calamities	Revenue	13323700000		13323700000
80	Dangs District	Revenue	70051000		70051000
81	Compensations and Assignments	Revenue Capital	90194000 83000	492000 125000	90686000 208000
82	Other expenditure pertaining to Revenue Department	Revenue Capital	1681000 28787000		1681000 28787000
83	Roads and Building Department	Revenue	25775000		25775000
84	Non-Residential Buildings	Revenue Capital	933154000 327838000	333000	933487000 327838000
85	Residential Buildings	Revenue Capital	325822000 70965000		325822000 70965000
86	Roads and Bridges	Revenue Capital	2295833000 1288225000		2295833000 1288225000
87	Gujarat Capital Construction Scheme	Revenue Capital	34627000 115479000		34627000 115479000
88	Other expenditure pertaining to Roads and Building Department	Revenue Capital	58333000 10810000		58333000 10810000
89	Social Justice and Empowerment Department	Revenue	9538000		9538000
90	Social Security and Welfare	Revenue Capital	1056654000 6104000	4167000	1060821000 6104000
91	Welfare of Scheduled Tribe	Revenue Capital	237983000 7917000		237983000 7917000
92	Other expenditure pertaining to Social Justice and Empowerment Department	Capital	3272000		3272000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		Total
			Voted	Charged on the Consolidated Fund	
1	2			3	
93	Special Component Plan for Scheduled Castes	Revenue Capital	1258004000 47193000		1258004000 47193000
94	Tribal Area Sub-Plan	Revenue Capital	3403015000 654580000		3403015000 654580000
95	Sports, Youth and Cultural Activities Department	Revenue	4210000		4210000
96	Youth Services and Cultural Activities	Revenue	123577000		123577000
97	Other expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	1451000		1451000
98	Urban Development and Urban Housing Department	Revenue	7001000		7001000
99	Urban Housing	Revenue	36691000	204451000	241142000
100	Urban Development	Revenue Capital	897080000 47583000		897080000 47583000
101	Compensations, Assignments and Tax Collection Charges	Revenue	353375000	114626000	468001000
102	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue Capital	7002000 1477000		7002000 1477000
Total :		Revenue	162821014000	17102461000	179923475000
		Capital	12069681000	5496992000	17566673000
Grand Total :			174890695000	22599453000	197490148000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of clause (2) of the article 206 of the Constitution of India, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the expenditure charged on the Consolidated Fund of the State of Gujarat, and the Grants made in advance by the Legislative Assembly in respect of the estimated expenditure for a part of the financial year ending on the 31st March, 2002.

The amounts are shown below :-

Rs.

(a) Revenue Expenditure

179923475000

(b) Capital Expenditure

17566673000

Total :

197490148000

Dated the 27th March, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 28th March, 2001.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of the publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :--

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION

BILL, 2001.

GUJARAT BILL NO. 11 OF 2001.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2001.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 2001. Short title.
2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of twelve thousand four hundred eighty-nine crores, thirty-seven lakhs, thirty-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 2001, in respect of the services and purposes specified in column 2 of the Schedule. Issue of
Rs.1,24,89,37,38,000
from and out of
the Consolidated
Fund of the State
of Gujarat for the
financial year
2000-2001.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appro- priation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2		3		
2.	Agriculture	Revenue	2,66,64,000	97,000	2,67,61,000
3.	Minor Irrigation, Soil Conservation and Area Development	Revenue	28,22,000	—	28,22,000
4.	Animal Husbandry and Dairy Development	Revenue	2,84,50,000	13,67,000	2,98,17,000
		Capital	3,85,23,000	2,70,00,000	6,55,23,000
5.	Co-operation	Capital	21,55,000	—	21,55,000
6.	Other Expenditure pertaining to Agriculture and Co-operation Department	Revenue	—	3,41,000	3,41,000
8.	Education	Revenue	1,03,16,18,000	1,03,64,000	1,04,19,82,000
11.	Tax Collection Charges (Energy and Petro- Chemicals Department)	Revenue	1,000	—	1,000
12.	Energy Projects	Revenue	21,40,16,35,000	—	21,40,16,35,000
		Capital	1,36,91,00,000	—	1,36,91,00,000
16.	Treasury and Accounts Administration	Revenue	1,000	—	1,000
18.	Other Expenditure pertaining to Finance Department	Revenue	2,000	—	2,000
19.	Repayment of Debt pertaining to Finance Department and its servicing	Revenue	—	1,000	1,000
		Capital	—	72,53,91,20,000	72,53,91,20,000
21.	Civil Supplies	Revenue	59,85,000	1,42,000	61,27,000
22.	Food	Revenue	41,75,000	1,19,000	42,94,000
25.	Forests	Revenue	—	2,05,000	2,05,000

No. of Vote/ Appro- priation	Services and purposes		Sums not exceeding		Total
			Voted	Charged on the Consolidated Fund	
1	2			3	
29.	Council of Ministers	Revenue	39,20,000	—	39,20,000
30.	Elections	Revenue	1,67,51,000	—	1,67,51,000
31.	Public Service Commission	Revenue	—	18,26,000	18,26,000
32.	General Administration Department	Revenue	57,15,000	—	57,15,000
33.	Economic Advice and Statistics	Revenue	12,40,80,000	—	12,40,80,000
34.	Other Expenditure pertaining to General Administration Department	Revenue	1,18,93,000	4,80,000	1,23,73,000
		Capital	6,39,80,000	—	6,39,80,000
35.	State Legislature	Revenue	1,000	1,65,000	1,66,000
38.	Medical and Public Health	Revenue	39,85,000	—	39,85,000
40.	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	1,000	—	1,000
42.	Police	Revenue	8,14,26,000	4,19,000	8,18,45,000
43.	Jails	Revenue	79,11,000	—	79,11,000
46.	Other Expenditure pertaining to Home Department	Revenue	3,45,24,000	16,25,000	3,61,49,000
		Capital	26,26,000	—	26,26,000
47.	Industries and Mines Department	Revenue	4,00,000	—	4,00,000
49.	Industries	Revenue	49,56,000	2,69,000	52,25,000
		Capital	91,77,49,000	—	91,77,49,000
54.	Information and Publicity	Revenue	2,23,37,000	—	2,23,37,000
56.	Labour and Employment Department	Revenue	8,53,000	—	8,53,000
57.	Labour and Employment	Revenue	2,70,44,000	—	2,70,44,000
60.	Administration of Justice	Revenue	1,000	—	1,000

No. of Vote/ Appro- priation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
61.	Other Expenditure pertaining to Legal Department	Revenue	6,46,000	—	6,46,000
64.	Narmada, Water Resources and Water Supply Department	Revenue	6,00,000	—	6,00,000
66.	Irrigation and Soil Conservation	Revenue	1,000	2,44,000	2,45,000
		Capital	1,000	2,41,68,000	2,41,69,000
67.	Water Supply	Revenue	1,000	—	1,000
		Capital	4,31,95,80,000	—	4,31,95,80,000
68.	Other Expenditure pertaining to Narmada, Water Resources and Water Supply Department	Revenue	—	3,30,91,000	3,30,91,000
70.	Community Development	Revenue	29,93,27,000	—	29,93,27,000
71.	Rural Housing and Rural Development	Revenue	2,000	25,11,06,000	25,11,08,000
73.	Other Expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	9,98,18,000	—	9,98,18,000
76.	Revenue Department	Revenue	1,00,86,000	—	1,00,86,000
78.	District Administration	Revenue	55,50,000	2,80,000	58,30,000
79.	Relief on account of Natural Calamities	Revenue	21,05,47,10,000	—	21,05,47,10,000
80.	Dangs District	Revenue	3,10,38,000	—	3,10,38,000
81.	Compensation and Assignment	Revenue	9,90,000	—	9,90,000
82.	Other Expenditure pertaining to Revenue Department	Revenue	36,10,000	—	36,10,000
84.	Non-Residential Buildings	Revenue	—	13,61,000	13,61,000
		Capital	4,000	67,000	71,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
85.	Residential Buildings	Capital 5,00,01,000	—	5,00,01,000
86.	Roads and Bridges	Revenue 1,000	22,89,000	22,90,000
		Capital 5,83,92,000	14,56,000	5,98,48,000
88.	Other Expenditure pertaining to Roads and Buildings Department	Revenue 1,32,00,000	55,23,000	1,87,23,000
90.	Social Security and Welfare	Revenue 1,06,24,000	6,50,00,000	7,56,24,000
91.	Welfare of Scheduled Tribes	Revenue 1,000	—	1,000
93.	Special Component Plan for Scheduled Castes	Revenue 1,000	—	1,000
94.	Tribal Area Sub-Plan	Revenue 10,07,91,000	55,34,000	10,63,25,000
		Capital 1,50,02,000	1,08,000	1,51,10,000
95.	Sports, Youth and Cultural Activities Department	Revenue 9,28,000	—	9,28,000
96.	Youth Services and Cultural Activities	Revenue 1,76,99,000	—	1,76,99,000
99.	Urban Housing	Revenue 7,11,06,000	2,79,00,000	9,90,06,000
100.	Urban Development	Revenue 11,01,40,000	—	11,01,40,000
		Capital 9,31,87,000	—	9,31,87,000
101.	Compensation Assignment and Tax Collection Charges	Revenue —	28,37,50,000	28,37,50,000
Total :		Revenue : 44,67,80,21,000	69,34,98,000	45,37,15,19,000
		Capital : 6,93,03,00,000	72,59,19,19,000	79,52,22,19,000
Grand Total :		51,60,83,21,000	73,28,54,17,000	1,24,89,37,38,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 2001.

The amounts are shown below :-

Rs.

(a) Revenue Expenditure	45,37,45,19,000
(b) Capital Expenditure	79,52,22,19,000
Total :	<u>1,24,89,37,38,000</u>

Gandhinagar,

Dated the 28th March, 2001 .

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,

Dated the 28th March, 2001.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(to be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of the publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :--

THE GUJARAT APPROPRIATION (EXCESS EXPENDITURE) BILL, 2001.

GUJARAT BILL NO. 12 OF 2001.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1989.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Appropriation (Excess Expenditure) Act, 2001. Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of seventy-five crores, eleven lakhs, thirty-eight thousand, four hundred and fifty-seven rupees towards defraying the several charges which have come in course of payment during the financial year ending on the thirty-first day of March, 1989, in respect of the services and purposes specified in column 2 of the Schedule. Issue of
Rs. 75,11,38,457
from and out of
the Consolidated
Fund of the State
of Gujarat for the
financial year
1988-89.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ending on the thirty-first day of March, 1989. Appropriation.

SCHEDULE

(See sections 2 and 3)

No. of Excess Demand/ Appro- priation	Services and purposes	Sums not exceeding		
		Charged on the Consolidated Fund	Voted by the Legislative Assembly	Total
1	2		3	
		Rs.	Rs.	Rs.
2.	Agriculture	Revenue	--	1,30,19,812
				1,30,19,812
3.	Minor Irrigation, Soil Conservation and Area Development	Revenue	--	42,31,849
				42,31,849
4.	Animal Husbandry and Dairy Development	Revenue	--	38,52,690
		Capital	--	16,53,600
				16,53,600
5.	Other expenditure pertaining to Agriculture and Rural Develop- ment Department	Revenue	87,93,568	--
				87,93,568
7.	Co-operation	Capital	--	6,91,08,450
				6,91,08,450
10.	Education	Revenue	89,89,000	--
				89,89,000
15.	Pension and other retirement benefits	Revenue	2,11,571	32,42,69,135
				32,44,80,706
23.	Forests	Revenue	--	83,41,796
		Capital	--	1,74,37,793
				1,74,37,793
25.	Other expenditure pertaining to Forest and Environment Department	Capital	--	16,62,967
				16,62,967
28.	Election	Revenue	--	15,76,544
				15,76,544
36.	Medical and Public Health	Revenue	--	3,25,37,006
				3,25,37,006
41.	Police	Revenue	14,053	7,07,96,855
				7,08,10,908
42.	Jails	Revenue	--	77,21,975
				77,21,975
43.	Other expenditure pertaining to Home Department	Revenue	--	22,26,369
		Capital	--	5,38,227
				5,38,227
44.	Industries Mines and Energy Department	Revenue	--	8,17,739
				8,17,739

No. of Excess Demand/ Appro- priation	Services and purposes		Sums not exceeding		Total
			Charged on the Consolidated Fund	Voted by the Legislative Assembly	
1	2			3	
			Rs.	Rs.	Rs.
48.	Mines and Minerals Department	Revenue	--	26,59,960	26,59,960
54.	Other expenditure pertaining to Information, Broadcasting and Tourism Department.	Capital	--	74,560	74,560
57.	Other expenditure pertaining to Irrigation Department	Revenue	1,16,860	--	1,16,860
		Capital	--	2,49,531	2,49,531
58.	Labour and Employment Department	Revenue	--	14,548	14,548
62.	Administration of Justice	Revenue	1,68,834	---	1,68,834
67.	Panchayats and Rural Housing Department	Revenue	--	78,772	78,772
69.	Rural Housing	Revenue	---	92,301	92,301
71.	Other Expenditure pertaining to Panchayats, Rural Housing Department	Revenue	--	23,870	23,870
74.	Transport	Revenue	--	10,51,66,617	10,51,66,617
79.	District Administration	Revenue	83,710	3,62,596	4,46,306
81.	Dang District	Revenue	--	22,28,515	22,28,515
84.	Roads and Buildings Department	Revenue	--	33,23,911	33,23,911
85.	Non-Residential Buildings	Revenue	--	2,42,27,440	2,42,27,440
87.	Roads and Bridges	Capital	8,798	---	8,798
89.	Other Expenditure pertaining to Roads and Building Department	Capital	--	5,173	5,173
90.	Social Welfare Department	Revenue	--	75,159	75,159

No. of Excess Demand/ Appro- priation	Services and purposes	Sums not exceeding		
		<i>Charged on the Consolidated Fund</i>	Voted by the Legislative Assembly	Total
1	2		3	
		Rs.	Rs.	Rs.
91.	State Excise Revenue	--	5,66,593	5,66,593
93.	Other expenditure pertaining to Social Welfare Department Capital	--	91,070	91,070
94.	Special Component Plan for Scheduled Castes Revenue	--	3,10,97,730	3,10,97,730
96.	Welfare of Scheduled Tribes Revenue	--	26,17,531	26,17,531
102.	Compensations, assignments and Tax Collection Charges Revenue	3,379	---	3,379
<i>Total :</i>		Revenue :	1,83,80,975	64,19,27,313
<i>Total :</i>		Capital :	8,798	9,08,21,371
<i>Grand Total :</i>			1,83,89,773	73,27,48,684
				75,11,38,457

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 205 of the Constitution of India read with article 204 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the excess expenditure incurred on certain services and purposes during the financial year ending on the thirty-first day of March, 1989.

The amounts are shown below :-				Rs.
(a)	Revenue Account	66,03,08,288
(b)	Capital Account	9,08,30,169
Total :				<u>75,11,38,457</u>

Dated the 28th March, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 28th March, 2001.

Government Central Press, Gandhinagar.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of the publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :--

THE GUJARAT APPROPRIATION (EXCESS EXPENDITURE)(SECOND) BILL, 2001.

GUJARAT BILL NO. 13 OF 2001.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1990.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Appropriation (Excess Expenditure) (Second) Act, 2001.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of one hundred twelve crores, fifty-one lakhs, ninety-one thousand, thirty-three rupees towards defraying the several charges which have come in course of payment during the financial year ending on the thirty-first day of March, 1990, in respect of the services and purposes specified in column 2 of the Schedule.

Issue of
Rs.1,12,51,91,033
from and out of the
Consolidated Fund
of the State of
Gujarat for the
financial year 1989-90.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ending on the thirty-first day of March, 1990.

Appropriation.

SCHEDULE

(See sections 2 and 3)

No. of Excess Demand/ Appropri- ation	Services and purposes	Sums not exceeding		
		Charged on the Consolidated Fund	Voted by the Legislative Assembly	Total
1	2	3		
		Rs.	Rs.	Rs.
2.	Agriculture Revenue	10,801	—	10,801
4.	Animal Husbandry Revenue	—	80,99,027	80,99,027
9.	Education Department Revenue	—	1,53,090	1,53,090
10.	Education Capital	—	69,35,275	69,35,275
15.	Pension and other Retirement benefits Revenue	—	1,02,93,705	1,02,93,705
16.	Other expenditure pertaining to Finance Department Revenue	5,729	—	5,729
18.	Food and Civil Supplies Department Revenue	—	15,045	15,045
23.	Forests Revenue	—	1,46,50,714	1,46,50,714
32.	Other expenditure pertaining to General Administration Department Revenue	3,234	—	3,234
38.	Water Supply Revenue	—	20,60,00,000	20,60,00,000
40.	Home Department Revenue	—	85,517	85,517
42.	Jails Revenue	—	16,30,852	16,30,852
43.	Other expenditure pertaining to Home Department Revenue	—	15,44,039	15,44,039
44.	Industries, Mines and Energy Department Revenue	—	3,53,445	3,53,445
46.	Stationery and Printing Revenue	—	22,07,043	22,07,043

No. of Excess Demand/ Appropri- ation	Services and purposes		Sums not exceeding		Total
			Charged on the Consolidated Fund	Voted by the Legislative Assembly	
1	2			3	
			Rs.	Rs.	Rs.
59.	Administration of Justice	Revenue.	1,04,300	—	1,04,300
60.	Other expenditure pertaining to Legal Department	Revenue	—	14,343	14,343
62.	Narmada Development Scheme	Revenue	—	55,00,28,077	55,00,28,077
63.	Other expenditure pertaining to Narmada Development Department	Capital	—	17,14,875	17,14,875
69.	Ports, Transport and Fisheries Department	Revenue	—	4,20,678	4,20,678
76.	District Administration	Revenue	—	81,02,954	81,02,954
77.	Relief on account of natural calamities	Revenue	—	74,37,054	74,37,054
78.	Dangs District	Revenue	—	16,11,907	16,11,907
79.	Compensations and Assignment	Revenue	—	9,04,526	9,04,526
81.	Roads and Building Department	Revenue	—	14,22,374	14,22,374
82.	Non Residential Buildings	Revenue	—	4,77,99,574	4,77,99,574
83.	Residential Buildings	Revenue	—	1,35,62,866	1,35,62,866
		Capital	248	—	248
84.	Roads and Bridges	Revenue	—	15,28,42,065	15,28,42,065
86.	Other expenditure pertaining to Roads and Buildings Department	Revenue	46,91,151	21,34,073	68,25,224
88.	State Excise	Revenue	—	11,59,420	11,59,420
90.	Other expenditure pertaining to Social Welfare Department.	Capital	—	4,22,720	4,22,720

No. of Excess Demand/ Appropri- ation	Services and purposes	Sums not exceeding		
		Charged on the Consolidated Fund	Voted by the Legislative Assembly	Total
1	2		3	
		Rs.	Rs.	Rs.
91.	Special component plan for Scheduled Castes.	Capital —	42,80,311	42,80,311
93.	Welfare of Schedule Tribes	Capital —	34,83,032	34,83,032
96.	Urban Development and Urban Housing Department	Revenue —	76,639	76,639
97.	Urban Housing	Revenue —	5,251	5,251
99.	Compensations, Assignment and Tax Collection Charges	Revenue —	15,84,414	15,84,414
101.	Water Resources Department	Revenue —	12,94,980	12,94,980
102.	Irrigation and Soil Conservation	Revenue —	6,81,05,685	6,81,05,685
Total :		Revenue :	48,15,215	1,10,35,39,357
		Capital :	248	1,68,36,213
Grand Total :			48,15,463	1,12,03,75,570
				1,12,51,91,033

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 205 of the Constitution of India read with article 204 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the excess expenditure incurred on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 1990.

The amounts are shown below :-

	Rs.
(a) Revenue Expenditure	1,10,83,54,572
(b) Capital Expenditure	1,68,36,461
Total :	<u>1,12,51,91,033</u>

Dated the 28th March, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 28th March, 2001.

Government Central Press, Gandhinagar.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *GUJARAT GOVERNMENT GAZETTE*.
The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of
the Gujarat Legislative Assembly Rules :-

THE GUJARAT MOTOR SPIRIT CESS BILL, 2001.

GUJARAT BILL NO. 14 OF 2001.

A BILL

*to provide for levy of cess on turnover of sales of motor spirit in the State of
Gujarat for the purpose of creating fund in order to compensate local
authorities consequent on the abolition of octroi and for the matters
connected therewith and incidental thereto.*

It is hereby enacted in the Fifty-second Year of the Republic of India as
follows :-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Motor Spirit Cess Act, 2001.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall be deemed to have come into force on the 1st May, 2001.

Short title,
extent and
commence-
ment.

Definitions.**2.**

(1) In this Act, unless the context otherwise requires, —

(a) "cess" means the cess on the turnover of sales of motor spirit levied under section 3;

(b) "Collector" means the Collector appointed under section 10 and includes a Special Collector or an Additional Collector appointed under that section;

(c) "local authorities" means —

(i) a municipality constituted under the Gujarat Municipalities Act, 1963; **Guj. 34 of 1964.**(ii) a village panchayat constituted under the Gujarat Panchayats Act, 1993; **Guj. 18 of 1993.**

(d) "prescribed" means prescribed by rules;

(e) "rules" means rules made under this Act;

(f) "tax" means tax, additional tax and turnover tax levied under the Bombay Sales of Motor Spirit Taxation Act, 1958;

Bom. LXVI of 1958.

(g) "Tribunal" means the Gujarat Sales Tax Tribunal constituted under section 28 of the Gujarat Sales Tax Act, 1969, and discharging functions of the Tribunal assigned to it by or under this Act;

Guj. 1 of 1970.

(h) "turnover of sales" means sales price including the amount of tax as defined in clause (f) of this section;

(i) "year" means a financial year.

(2) Words and expressions used and not defined in this Act but defined in the Bombay Sales of Motor Spirit Taxation Act, 1958 shall have the meanings respectively assigned to them in that Act.

Bom. LXVI of 1958.**CHAPTER II****LEVY OF CESS AND UTILISATION OF PROCEEDS OF CESS****Levy and collection of cess.**

3. (1) For the purpose of providing fund for local authorities in the State of Gujarat, there shall be levied and collected a cess on the turnover of sales of motor spirit by a manufacturer or importer or trader, but after deducting therefrom such turnover on which cess has been paid on earlier turnover of sales of motor spirit :

Provided that such cess shall not be levied at more than one stage.

(2) The cess under sub-section (1) shall be levied in such manner and at such rate or rates not exceeding four per cent. of the turnover of sales of such motor spirit, as may be prescribed and different rates may be prescribed for different kinds of motor spirit.

(3) The cess levied under sub-section (1) shall be payable by the trader.

4. (1) The proceeds of the cess and interest (other than fines) recovered under this Act shall first be credited to the Consolidated Fund of the State and after deduction of the expenses of collection and recovery therefrom shall, under appropriation duly made by law in this behalf, be entered in, and transferred to a separate fund called the "Local Authorities Fund".

Local
Authorities
Fund.

(2) Any amount transferred to the Local Authorities Fund under sub-section (1) shall be charged on the Consolidated Fund of the State.

(3) The amount transferred to the Local Authorities Fund shall be expended in such manner and subject to such conditions as may be prescribed for the purpose mentioned in section 3.

5. (1) The cess levied under section 3 shall be payable by trader in such manner as may be prescribed.

Payment of
cess.

(2) The trader liable to pay cess under section 3 shall furnish at such intervals and to such authority, returns in such form and in such manner as may be prescribed.

6. Where a trader does not pay the amount of cess within the time prescribed for its payment, there shall be paid by such trader, for the period commencing on the date of expiry of the aforesaid period and ending on the date of payment of the amount of cess, simple interest at the rate of twenty-four per cent. per annum on the amount of cess not so paid or any less amount thereof remaining unpaid during such period.

Interest on
delayed
payment of
cess.

7. Where cess under section 3 is levied and collected on the turnover of sales of motor spirit to a trader and such motor spirit is then sold by such trader in the course of inter-State trade or commerce or exported out of the territory of India within six months of such sales, the trader shall, upon an application made in this behalf and subject to such conditions as may be prescribed, be entitled to refund of cess in respect of the sale to him of the motor spirit.

Refund in
certain
circum-
stances.

CHAPTER III REGISTRATION

8. (1) Every trader holding a licence under the Bombay Sales of Motor Spirit Taxation Act, 1958 shall be required to apply for and obtain a registration certificate :

Registration.

Provided that the Collector may, subject to such conditions as may be prescribed, grant exemption from the provisions of registration to a trader who, by virtue of deduction from turnover of sales, does not become liable to pay cess under this Act.

(2) The application for registration shall be made in such form, within such period and to such authority, as may be prescribed.

(3) On receipt of an application for registration under sub-section (2), the authority on its satisfaction, may issue a certificate of registration in such form as may be prescribed.

Suspension or
cancellation
of registra-
tion.

9. The Collector may, subject to such conditions as may be prescribed, suspend or cancel the registration if,—

- (a) any cess payable under section 5 is not duly paid by the trader;
- (b) there is any breach of conditions subject to which the registration is granted; or
- (c) the trader contravenes any of the provisions of this Act or the rules made thereunder.

CHAPTER IV

CESS AUTHORITIES

Cess Authori-
ties.

10. (1) For carrying out the purposes of this Act, the State Government may appoint —

- (a) a person to be the Collector of Motor Spirit Cess for the whole of the State of Gujarat;
- (b) a person to be the Special Collector of Motor Spirit Cess;
- (c) a person to be the Additional Collector of Motor Spirit Cess; and
- (d) such other persons to assist the Collector as the State Government may think fit.

(2) A person appointed under clause (b), (c) or (d) of sub-section (1) shall, within the limits of such area as the State Government may specify, exercise such powers and perform such duties as may be conferred or imposed on him by or under this Act.

CHAPTER V

LIABILITY TO KEEP ACCOUNTS, SUBMIT STATEMENT AND POWERS OF INSPECTION AND SEARCH

Traders to
keep accounts
and submit
statement.

11. Every trader shall keep and maintain accounts in such form as may be prescribed, of motor spirit manufactured, imported, sold or purchased by him, and shall submit to the officer authorised in this behalf by the Collector, the statement in such form, in such manner and for such period, as may be prescribed:

Provided that where a trader has more than one place of business, the Collector may subject to such terms and conditions as may be prescribed, permit such trader to submit a consolidated statement relating to all or any of his places of business to such officer as the Collector may direct.

Production
and inspec-
tion of
accounts and
documents
and search of
premises.

12. (1) The Collector may, for the purposes of this Act, at all reasonable times—

- (i) require any trader to produce before him accounts, registers or other documents or to furnish any other information; or
- (ii) inspect the accounts, registers and other documents and the stocks of any motor spirit manufactured, stored or kept in any shop, warehouse or place of business of any such trader; or

(iii) enter and search any building, vessel, vehicle or place in which he has reason to believe that any motor spirit is stored or kept for the purpose of sale or manufacture or where the accounts, registers and other documents are kept.

2 of 1974.

(2) All searches made under this section shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

13. If the Collector has reason to believe that any trader is attempting to commit an offence punishable under this Act, he may for reasons to be recorded in writing, seize such accounts, registers or other documents of such trader as may be necessary and shall grant a receipt for the same and retain the same only for so long as may be necessary for examination thereof or for prosecution.

Seizure of any documents in certain circumstances.

CHAPTER VI

ASSESSMENTS, APPEALS AND REVISION

14. (1) The amount of cess due from a trader shall be assessed by the Collector.

Assessment.

(2) If the Collector is satisfied that the returns furnished by a trader are correct and complete, he shall assess the amount of cess due from the trader on the basis of such returns.

(3) If the Collector is not satisfied that the returns furnished in respect of any period are correct and complete, and he thinks it necessary to require the presence of trader or the production of further evidence, he shall serve on such trader, in the prescribed manner, a notice requiring him on a date and a place specified therein, either to attend and produce or cause to be produced all evidences on which such trader relies in support of his returns, or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Collector shall, after considering all the evidences which may be produced, assess the amount of cess due from the trader.

(4) If a trader fails to comply with the terms of any notice issued under sub-section (3), the Collector shall assess, to the best of his judgement, the amount of cess due from him.

15. Save as provided by section 19, no assessment made and no order passed under this Act or the rules made thereunder by the Collector or any person appointed under section 10 to assist him, shall be called in question in any civil court, and save as provided by sections 16 and 17, no appeal or application for revision shall lie against any such assessment or the order.

Bar of certain proceedings.

16. (1) Any trader aggrieved by any order of the Collector, may file an appeal before such authority, within such time and in such manner, as may be prescribed.

Appeal.

(2) No appeal against an order of the assessment shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the cess with interest, if any, in respect of which the appeal has been preferred:

Provided that the said authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order,—

(a) without payment of the cess or interest, if any, but on furnishing in the prescribed manner, security for such amount of cess and interest, as it may direct, or

(b) on proof of payment of such smaller sum, with or without security in like manner for such amount of cess and interest which remains unpaid as it may direct.

(3) Subject to such rules of procedure as may be prescribed, the said authority may pass such order on appeal as it may think just and proper.

(4) Every order passed in appeal under this section shall, subject to the provisions of sections 17, 19 and 20 be final.

Revision.

17. (1) Subject to such rules as may be prescribed, and for the reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules made thereunder by a person appointed under section 10 to assist him and subject thereto the Tribunal may, upon application, revise any order passed by the Collector:

Provided that no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order :

Provided further that before rejecting any application for the revision of any such order, the Collector or as the case may be, the Tribunal, shall record reasons in writing for such rejection.

(2) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(3) Where an appeal lies under section 16 and no appeal has been filed, no proceedings in revision under this section shall be entertained upon the application of such person.

Extension of period of limitation in certain cases.

18. The prescribed authority may admit an appeal under section 16 Collector and the Tribunal may admit an application under section 17 expiry of period of limitation laid down in the said sections, if the applicant, as the case may be, satisfies the prescribed authority, the Collector, or as the case may be, the Tribunal, that he had sufficient causes for not presenting the appeal, or making the application, within such period.

Statement of case to High Court.

19. (1) Within ninety days from the date of passing of any order under sub-section (3) of section 16 or sub-section (1) of section 17 affecting any liability of any trader to pay cess, such trader or the Collector, may by application in writing require the Tribunal to refer to the High Court any question of law arising out of such order, and where the Tribunal agrees, it shall draw up a statement of the case and refer it to the High Court.

(2) If, for reasons to be recorded in writing, the Tribunal refuses to make such reference, the applicant may within thirty days of such refusal apply to the High Court against such refusal.

(3) If upon the receipt of an application under sub-section (2), the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court; and on receipt of such requisition, the Tribunal shall state and refer the case to the High Court accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alternations therein as the High Court may direct in that behalf.

(5) The High Court upon hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgement thereon and shall send to the Tribunal a copy of such judgement and the Tribunal shall dispose of the case accordingly.

(6) The payment of the amount, if any, of the cess due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as a result of such reference, the excess cess paid shall be refunded.

20. (1) The Collector may at any time within two years from the date of any order passed by him, either on his own motion or on an application made by any person affected by such order rectify any mistake of fact apparent from the record:

**Rectification
of mistakes.**

Provided that no such rectification shall be made if it has the effect of enhancing the cess or reducing the amount of refund, unless the Collector has given notice in writing to such trader of his intention to do so and has allowed such trader a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of mistake by the Tribunal or the prescribed authority under section 16 as they apply to the rectification of a mistake by the Collector.

(3) Where any such rectification has the effect of reducing the amount of cess, the Collector shall in the prescribed manner refund any due, to such trader.

(4) Where any such rectification has the effect of enhancing the amount of cess or reducing the amount of refund, the Collector shall recover the amount due from the trader in the manner provided in section 32.

CHAPTER VII

OFFENCES, PENALTIES AND PROCEDURE

21. Whoever contravenes the provisions of section 8 shall, on conviction, be punished with fine which may extend to twenty thousand rupees and in the case of a continuing contravention, with an additional fine which may extend to one thousand rupees for each day during which such contravention continues after conviction for the first such contravention.

**Penalty for
carrying on
business
without
registration.**

22. If any trader liable under section 11 to keep accounts or to submit statements, fails without sufficient cause to keep or submit the same in the manner and at the period prescribed or keeps false accounts or submits false statements, he shall, on conviction, be punished with fine which may extend to twenty

**Penalty for
failure to
keep accounts
or submit
statements.**

thousand rupees and in the case of a continuing failure, with an additional fine which may extend to one thousand rupees for each day during which such failure continues, after conviction for the first such failure.

Penalty for failure to comply with requirements of section 12 or for obstructing officer in discharging his duties.

23. Whoever –

- (a) fails to comply with any requirement made to him under sub-section (1) of section 12, or
- (b) produces false accounts, registers or documents, or knowingly furnishes false information, or
- (c) obstructs any officer making an inspection, search or seizure under the provisions of this Act, or
- (d) aids or abets any person in the commission of any act specified in clause (a), (b) or (c) of this section,

shall, on conviction, be punished with fine which may extend to twenty thousand rupees and in the case of a continuing contravention, with an additional fine which may extend to one thousand rupees for each day during which such contravention continues after conviction for the first such contravention.

Offences by companies.

24. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:— For the purpose of this section —

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

Cognisance of offences.

25. No court shall take cognisance of any offence punishable under this Act except with the previous sanction of the Collector.

26. (1) Any officer specially empowered by the State Government in this behalf may enter and search, at any time any building, vessel, vehicle or place in which he has reason to believe that motor spirit is kept for the purpose of sale contrary to the provisions of this Act or any rules made thereunder.

Power of entry and search.

2 of 1974.

(2) All searches under this section shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

27. (1) Every officer not below such rank as may be prescribed shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

Powers of investigation.

2 of 1974.

(2) Every such officer shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 upon an officer in-charge of police station for the investigation of a cognisable offence.

CHAPTER VIII

MISCELLANEOUS

28. Subject to the general or special orders of the State Government, the Collector may delegate any of the powers conferred upon him by or under this Act to any person appointed to assist him under section 10.

Delegation of powers.

29. The Collector may, after due notice to the trader, by order in writing, transfer any proceedings or class of proceedings under any provisions of this Act or the rules made thereunder, from himself to any other officer and he may likewise transfer any such proceedings (including proceeding already transferred under this section) from one such officer to another officer or to himself.

Powers to transfer proceedings.

30. The Collector, all officers and other employees appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers to be public servants.

XLV of 1860.

31. No suit, prosecution or other legal proceedings shall lie against any officer or employee appointed under this Act for anything, which is in good faith done or intended to be done in pursuance of the provisions of this Act or the rules made thereunder.

Protection of action taken in good faith.

32. All sums payable as cess or interests (other than fines) under this Act shall, if not paid within the prescribed period or, as the case may be, before such date as the Collector may direct, be recoverable as an arrear of land revenue.

Recovery as arrear of land revenue.

33. Nothing in this Act or the rules made thereunder, shall be deemed to impose or authorise the imposition of a cess on any turnover of sales of motor spirit where such sales takes place -

Certain sales not liable to cess.

(a) outside the State of Gujarat,

(b) in the course of the import of such motor spirit into the territory of India or the export of the goods out of such territory, or

(c) in the course of inter-State trade or commerce.

Explanation. – For the purpose of this section, whether a sale takes place –

- (i) outside the State of Gujarat, or
- (ii) in the course of import of the goods into the territory of India or the export of the goods out of such territory, or
- (iii) in the course of inter-State trade or commerce

shall be determined in accordance with the principle specified in sections 3, 4 and 5 of the Central Sales Tax Act, 1956.

LXXIV of
1956.

Power to
make rules.

34. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely : —

- (a) the stage at which, the rate at which, and the manner in which, the cess shall be levied and collected under section 3;
- (b) the manner in which and conditions subject to which the Local Authorities Fund shall be expended under section 4;
- (c) the manner in which the cess shall be payable by trader under sub-section (1) of section 5;
- (d) the intervals at which, the authority to which, the form in which and the manner in which the return shall be furnished under sub-section (2) of section 5;
- (e) the conditions subject to which a trader shall be entitled to refund of cess under section 7;
- (f) the conditions subject to which the exemption from the provisions of registration may be granted by the Collector under sub-section (1) of section 8;
- (g) the form in which, period within which and the authority to which the application for registration shall be made under sub-section (2) of section 8;
- (h) the form in which certificate of registration shall be issued under sub-section (3) of section 8;
- (i) the conditions subject to which the Collector may suspend or cancel registration under section 9;
- (j) the form in which accounts shall be maintained by the trader under section 11;
- (k) the form in which, the manner in which and the period for which statements shall be submitted under section 11;
- (l) terms and conditions subject to which the trader may be permitted to submit a consolidated statement under the proviso to section 11;

(m) the manner in which a notice shall be served by the Collector on a trader under sub-section (3) of section 14;

(n) the manner in which, the time within which and the authority to which an appeal may be preferred under sub-section (1) of section 16;

(o) the manner in which the security shall be furnished under the proviso to sub-section (2) of section 16;

(p) the rules of procedure subject to which the authority may pass an order on appeal under sub-section (3) of section 16;

(q) the rules subject to which the Collector or the Tribunal may revise an order under sub-section (1) of section 17;

(r) the manner in which the Collector may refund the amount of cess under sub-section (3) of section 20;

(s) the rank of officer who shall have power to investigate offences under sub-section (1) of section 27.

(3) Any rule made under this section may provide that any person contravening any such rule shall be liable, on conviction, to be punished with a fine which may extend to one thousand rupees and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for each day during which such contravention continues after conviction for the first such contravention.

(4) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication :

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(5) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(6) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Guj. Ord. 7 of
2001.

35. (1) The Gujarat Motor Spirit Cess Ordinance, 2001 is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

The State Government had decided to abolish octroi levied by the municipalities and panchayats. In order to compensate the municipalities and panchayats consequent on abolition of octroi, it was considered necessary to levy cess on the turnover of sales of motor spirit. The amount of cess shall be transferred to a separate fund called the Local Authorities Fund and shall be expended for the purpose of providing fund to such local authorities.

As the Gujarat Legislative Assembly was not in session, the Gujarat Motor Spirit Cess Ordinance, 2001 was promulgated to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain the important provisions of the Bill :-

Clause 2.- This clause defines certain terms used in the Bill.

Clause 3.- This clause provides for levy and collection of cess on the turnover of sales of motor spirit by a manufacturer, importer or trader at such rate not exceeding four per cent. of the turnover of sales of motor spirit.

Clause 4.- This clause provides that the proceeds of the cess and interest shall first be credited to the Consolidated Fund of the State and then it shall be transferred to a fund called the Local Authorities Fund for providing funds to the local authorities.

Clause 5.- This clause provides for payment of cess by a trader.

Clause 6.- This clause provides for payment of interest at the rate of twenty four per cent. on delayed payment of cess.

Clause 7.- This clause provides for refund of cess in the cases where motor spirit is sold by the trader within six months in the course of inter-State trade, commerce or exported out of India.

Clause 8.- This clause provides for granting a registration certificate to a trader.

Clause 9.- This clause provides for suspension or cancellation of registration in the circumstances stated therein.

Clause 10.- This clause provides for appointment of certain Cess Authorities.

Clause 11.- This clause provides that the trader shall keep and maintain accounts and shall submit statement to the authorised officer.

Clauses 12 and 13.- These clauses provide for production and inspection of accounts and documents and search of premises and also provide for seizure of registers and documents in certain circumstances.

Clause 14.- This clause provides for assessment of cess by the Collector.

Clause 15.- This clause provides for bar of jurisdiction of civil court.

Clause 16.—This clause provides for appeal against the order of the Collector.

Clause 17.—This clause provides for revision by the Collector, of orders passed by a person appointed to assist him under section 10 and by the Tribunal, of orders passed by the Collector.

Clause 19.—This clause provides for Tribunal to draw up a statement of the case and refer it to the High Court where any trader or the Collector has by an application, required the Tribunal to refer to High Court any question of law arising out of any order.

Clause 20.—This clause provides for rectification of mistakes by the Collector apparent from the record.

Clauses 21 and 22.—These clauses provide for penalty on conviction and fine for carrying on the business without registration and penalty for failure to keep accounts or submit statement by a trader.

Clause 23.—This clause provides for penalty for failure to comply with the requirements of section 12 or for obstructing officer in discharging his duties.

Clause 24.—This clause relates to the offences committed by the companies.

Clause 25.—This clause provides for cognisance of offences.

Clauses 26 and 27.—These clauses empower the authorised officer to enter and search any building, vessel and vehicle or place for the purposes of the Act and to investigate the offences in accordance with the provisions of the Code of Criminal Procedure, 1973.

Clauses 28 and 29.—These clauses empower the Collector to delegate any of his powers and also to transfer the proceedings to any other officer.

Clause 32.—This clause provides for recovery of cess as an arrear of land revenue.

Clause 33.—This clause provides that certain sales shall not be liable to cess.

Clause 34.—This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2).

VAJUBHAI VALA

FINANCIAL MEMORANDUM

Clause 10 of the Bill empowers the State Government to appoint various Cess Authorities for the purposes of the Act. The officers of the Sales Tax Department will act as Cess Authorities. Therefore, the provisions of the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

VAJUBHAI VALA**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects :—

Clause 3.— Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the period for which, the manner in which and the rate at which cess shall be levied and collected under sub-section (1).

Clause 4.— Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner in which and conditions subject to which the Local Authorities Fund shall be expended.

Clause 5.— (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the trader shall pay the cess;
(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form in which, the intervals at which, the manner in which and the authority to whom the return shall be furnished by the trader.

Clause 7.— This clause empowers the State Government to prescribe by rules the conditions subject to which the trader shall be entitled to refund of cess in respect of sale of the motor spirit in the circumstances specified therein.

Clause 8.— (i) Proviso to sub-clause (1) of this clause empowers the State Government to prescribe by rules the conditions subject to which the Collector may grant exemption to the trader from the provisions of registration;
(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form in which, the period within which and the authority to whom application for registration shall be made by the trader.

(iii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the form in which, the authority shall issue a certificate of registration.

Clause 9.— This clause empowers the State Government to prescribe by rules, the conditions subject to which the Collector may suspend or cancel the registration.

Clause 10.— This clause empowers the State Government to appoint certain persons for exercising such powers and duties within such areas as may be specified.

Clause 11.—(i) This clause empowers the State Government to prescribe by rules, the form in which the trader shall keep and maintain accounts and empowers to prescribe the form in which, the manner in which and the period for which the trader shall submit the statement to the authorised officer;

(ii) proviso to this clause empowers the State Government to prescribe by rules, the terms and conditions subject to which the Collector may permit a trader to submit a consolidated statement relating to all or any of his places of business.

Clause 14.— Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner in which the Collector shall issue a notice to a trader for the purpose of assessment.

Clause 16.—(i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the time limit within which, the manner in which and authority to whom an appeal may be filed against the order of the Collector;

(ii) paragraph (a) of proviso to sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which security shall be furnished by the trader for filing appeal against the order of the Collector, without payment of the cess or interest;

(iii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the rules of procedure to be followed by the authority while passing an order on appeal.

Clause 17.— Sub-clause (1) of this clause empowers the State Government to prescribe by rules, subject to which the Collector or, as the case may be, the Tribunal may revise an order passed under the Act.

Clause 20.— Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner in which the Collector may refund the cess after rectification of mistakes.

Clause 27.—This clause empowers the State Government to prescribe by rules, the rank of officer which shall have power to investigate offences punishable under the Act.

Clause 34.—This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2).

The delegation of legislative powers, as aforesaid, is necessary and is of a normal character.

Dated the 19th July, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar.

Dated the 20th July, 2001.

Government Central Press, Gandhinagar.



The Gujarat Government Gazette EXTRAORDINARY

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may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *GUJARAT GOVERNMENT GAZETTE*.
The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of
the Gujarat Legislative Assembly Rules :-

THE GUJARAT PANCHAYATS (SECOND AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 15 OF 2001.

A BILL

further to amend the Gujarat Panchayats Act, 1993.

It is hereby enacted in the Fifty-second Year of the Republic of India as
follows:—

1. (1) This Act may be called the Gujarat Panchayats (Second
Amendment) Act, 2001.

Short title
and
commence-
ment.

(2) It shall be deemed to have come into force on the 1st May, 2001.

Amendment
of section
2 of
Guj. 18 of
1993.

2. In the Gujarat Panchayats Act, 1993 (hereinafter referred to as "the principal Act"), in section 2, clause (13) shall be deleted.

Guj. 18 of
1993.

Amendment
of section
200 of
Guj. 18 of
1993.

3. In the principal Act, in section 200, in sub-section (1), clause (ii) shall be deleted.

Amendment
of section
202 of
Guj. 18 of
1993.

4. In the principal Act, in section 202, —
- (a) in sub-section (1), the words "or the collecting of octroi" shall be deleted;
 - (b) in sub-section (3), the words "or octroi, as the case may be" occurring at two places shall be deleted;
 - (c) in sub-section (4), the words "or octroi as the case may be" shall be deleted.

Deletion of
section
216 of
Guj. 18 of
1993.

5. In the principal Act, section 216 shall be deleted.

Repeal
and
savings.

6. (1) The Gujarat Panchayats (Amendment) Ordinance, 2001 is hereby repealed.

Guj. Ord. 4
of 2001.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The village panchayats were authorised under the provisions of the Gujarat Panchayats Act, 1993 to levy and collect the tax known as 'octroi'.

It was represented to the Government by the various sections of the society to abolish octroi as it cause undue hardships and harassment to public. Having regard to the aforesaid facts, the Government had decided to abolish the octroi levied by village panchayats in the State. It was therefore, considered necessary to amend the provisions relating to octroi of the said Act to that effect.

As the Gujarat Legislative Assembly was not in session, the Gujarat Panchayats (Amendment) Ordinance, 2001 was promulgated to amend the said Act to achieve the aforesaid object.

This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 18 th July, 2001.

NARAYANBHAI PATEL.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar.

Dated the 20 th July, 2001.

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सत्यमेव जयते

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PART- V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT TOWN PLANNING AND URBAN DEVELOPMENT (AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 16 OF 2001.

A BILL

further to amend the Gujarat Town Planning and Urban Development Act, 1976.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Town Planning and Urban Development (Amendment) Act, 2001.

Short title and
commence-
ment.

- (2) This section and section 2 shall be deemed to have come into force on the 28th April, 2001 and the remaining sections shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 5 of
President's
Act No. 27 of
1976.

2. In the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as "the principal Act"), in section 5, after sub-section (3), the following sub-section shall be inserted, namely :—

President's
Act No. 27 of
1976.

" (3A) Notwithstanding anything contained in sub-section (1), the State Government, to deal with the situation arising out of natural calamity or disaster, may by notification, constitute the area development authority or reconstitute any existing area development authority constituted under sub-section (1), for any development area declared as such under section 3, consisting of such members as it deems fit."

Insertion of
new section
6B in
President's
Act No. 27 of
1976.

3. In the principal Act, after section 6A, the following section shall be inserted, namely : --

Powers of
Collector to
suspend
execution of
order etc. of
appropriate
authority.

" 6B (1) A copy of every order, resolution or decision of the appropriate authority shall be sent to the Collector of the district.

(2) If, in the opinion of the Collector, the execution of any order, resolution or decision of an appropriate authority or the doing of anything which is about to be done or is being done by or on behalf of an appropriate authority is causing or is likely to cause injury or annoyance to the public or to lead to a breach of the peace or is unlawful, he may by order in writing suspend the execution or prohibit the doing thereof and where the execution of any work in pursuance of the order or resolution of an appropriate authority is already commenced or completed, direct an appropriate authority to restore the position in which it was before the commencement of such work.

(3) When the Collector makes any order under this section, he shall forthwith forward to an appropriate authority affected thereby a copy of the order with a statement of the reasons for making it and also submit a report to the State Government alongwith copies of such order and statement.

(4) Against the order made by the Collector under sub-section (1), the appropriate authority or any person affected thereby may prefer an appeal to the State Government within thirty days from the date on which it receives a copy of the order. The State Government may on such appeal rescind the order or may revise or modify or confirm the order or direct that the order shall continue to be in force, with or without modification, permanently or for such period as it may specify :

Provided that the order shall not be revised, modified or confirmed by the State Government without giving the appropriate authority or, as the case may be, person affected thereby reasonable opportunity of showing cause against the order."

Amendment of
section 22 of
President's
Act No. 27 of
1976.

4. In the principal Act, in section 22, after sub-section (4), the following sub-section shall be inserted, namely : —

"(4A) Notwithstanding anything contained in sub-section (4), the State Government, to deal with the situation arising out of natural calamity or disaster, may by notification constitute the urban development authority or reconstitute any existing urban development authority constituted under sub-section (1), for any urban development area declared as such under sub-section (1), consisting of such members as it deems fit."

5. In the principal Act, in section 51, after the second proviso, the following proviso shall be inserted, namely :-

Amendment of section 51 of President's Act No. 27 of 1976.

Guj. Act No. 2 of 1999.

"Provided also that where the town planning scheme pending before the Town Planning Officer on the date of commencement of the Gujarat Town Planning and Urban Development (Amendment) Act, 1999, has not been sub-divided into a preliminary scheme and a final scheme within the period so extended under the second proviso, the State Government may, by order and for reasons to be recorded in writing, extend the period by such further period not exceeding two years in aggregate from the date of expiry of the period so extended under the said proviso and any such order extending the period may be made so as to have retrospective effect."

Guj. Ord. 2 of 2001.

6. (1) The Gujarat Town Planning and Urban Development (Amendment) Ordinance, 2001 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of section 5 of the Gujarat Town Planning and Urban Development Act, 1976, the State Government is empowered to constitute an area development authority for the development areas declared as such under section 3.

Recently, a grave situation has arisen out of the devastating earthquake wherein the urban areas need to be provided with specialised and modern planning to cope with the requirements of seismic safeguards etc. in the development plans. At the same time, there is need for incorporating experts in the constitution of area development authorities to make it capable to deal with the situation. The area development authority constituted under sub-section (3) of section 5 of the said Act, need to be changed by either constituting or reconstituting the area development authority consisting of such members in a manner to deal more effectively with the situation arising out of the natural calamity or disaster. It was, therefore, considered necessary to amend the existing provision relating to constitution of area development authority of the said Act. Similarly, an opportunity is taken to amend section 22 to enable the State Government to constitute or reconstitute urban development authority in the aforesaid circumstances.

As the Gujarat Legislative Assembly was not in session, the Gujarat Town Planning and Urban Development (Amendment) Ordinance, 2001 was promulgated to amend section 5 to achieve the aforesaid object.

Section 258 of the Gujarat Municipalities Act, 1963 empowers the Collector to suspend the execution of the order or resolution of a municipality or prohibit the doing thereof. It is therefore considered necessary to insert new section 6B in the Act, on the line of said section 258, empowering the Collector to suspend any order, resolution or decision of the appropriate authority which is causing injury or annoyance to the public or lead to breach of peace or is unlawful.

Section 51 as amended by the Gujarat Act No. 2 of 1999 provides maximum period of twenty-seven months within which Town Planning Officer shall sub-divide the town planning scheme into preliminary scheme and final scheme. Before coming into force of the said amending Act, it was not the practice to carry out detailed measurement (survey) of the existing structures in the draft town planning schemes prepared by the appropriate authorities. Therefore the proposals made in such draft town planning schemes are required to be verified by the Town Planning Officer by making detailed survey and investigations in the records. This process is consuming more time in finalising the town planning scheme. It is, therefore, considered necessary to take power to extend the time limit for sub-dividing town planning scheme for a further period of two years from the date of expiry of the aforesaid maximum period. This power can be exercised by the Government only in the cases where town planning schemes are pending on the date of commencement of the said amending Act of 1999.

This Bill seeks to replace the aforesaid Ordinance by an Act of the State Legislature and an opportunity is also taken to insert new section 6B and to amend sections 22 and 51 of the said Act to achieve the aforesaid objects.

PARMANAND KHATTAR,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

- Clause .-1* Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the remaining sections shall come into force.
- Clause .-2* Sub-section (3A) proposed to be inserted in section 5 by this clause empowers the State Government to constitute by notification, the area development authority or reconstitute any existing area development authority constituted under sub-section (1) for any development area declared as such under section 3, consisting of such members as it deems fit.
- Clause .-4* Sub-section (4A) proposed to be inserted in section 22 by this clause empowers the State Government to constitute by notification, the urban development authority or reconstitute any existing urban development authority constituted under sub-section (1), for any urban development area declared as such under sub-section (1) consisting of such members as it deems fit.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 23 rd July, 2001.

PARMANAND KHATTAR.

By order and in the name of the Governor of Gujarat,

S.S. Parmar,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,

Dated the 24th July, 2001.

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EXTRAORDINARY

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- Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT REGULARISATION OF UNAUTHORISED DEVELOPMENT BILL, 2001.

GUJARAT BILL NO. 17 OF 2001.

A BILL

to regularise unauthorised development in urban development area or development area in the State.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Regularisation of Unauthorised Development Act, 2001.

Short title and commencement.

(2) It shall be deemed to have come into force on the 22nd November, 2000.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) “area development authority” means the authority constituted under section 5 of the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter in this section referred to as “the Gujarat Act”);

President's
Act No. 27 of
1976.

(b) "Commissioner" shall have the meaning assigned to it in clause (9) of section 2 of the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter in this section referred to as "the Bombay Act");

Bom. LIX of
1949.

(c) "designated authority" means the Commissioner, the area development authority or, as the case may be, urban development authority;

(d) "development" shall have the meaning assigned to it in clause (viii) of section 2 of the Gujarat Act;

(e) "development area" shall have the meaning assigned to it in clause (ix) of section 2 of the Gujarat Act;

(f) "prescribed" means prescribed by rules made under section 9;

(g) "the relevant law" means the Bombay Act or the Gujarat Act or any rules or bye-laws, regulations, standing orders or orders made thereunder;

(h) "urban development authority" shall have the meaning assigned to it in clause (xxviii) of section 2 of the Gujarat Act.

(2) Development shall be deemed to be unauthorised if no permission of authority competent to give such permission is obtained therefor, or having obtained such permission, the development is in contravention of the relevant law or of such permission.

**Regularisation
of
unauthorised
development.**

3. (1) (a) A notice issued to a person under the relevant law at any time before the 22nd November, 2000 requiring such person to remove or pull down or alter unauthorised development carried out, owned or occupied by him; or

(b) any order issued or decision taken under the relevant law at any time before the 28th April, 2001, the date on which the Gujarat Regularisation of Unauthorised Development Ordinance, 2001 was first published, directing removal or pulling down or alteration of unauthorised development carried out, owned or occupied by a person,

**Guj. Ord. 3
of 2001.**

shall —

(i) in the case of (a) be deemed to have stood suspended with effect on and from the 22nd November, 2000, and

(ii) in the case of (b) be deemed to have stood suspended with effect on and from the 28th April, 2001.

unless and until such notice, order or decision stands revived under sub-section (5).

(2) (a) Notwithstanding anything contained in the relevant law or in the order issued or the decision taken under the relevant law, directing removal, pulling down or alteration of unauthorised development, where in the opinion of the designated authority—

- (i) a person has, at any time before the 22nd November, 2000 carried out any unauthorised development in urban development area or development area, and
- (ii) such unauthorised development may, having regard to the provisions of section 4, be regularised,

the designated authority may, within such period and in such manner as may be prescribed, serve on the person a notice requiring him within such period not being less than a month as may be specified therein to comply with such requisitions made under section 4 and specified therein and to pay to the designated authority such fees per square metre of each category of unauthorised development as may, subject to the provisos, be determined by the designated authority and specified therein:

Provided that the designated authority shall fix fees, subject to the maxima and the minima specified in the Table below:

Provided further that different rates of fees may be determined by the designated authority for different categories of unauthorised development in different areas and for different unauthorised uses.

(b) It shall be lawful for the designated authority to form the opinion referred to in clause (a) either on the basis of information available with it or an application made to it by a person who has carried out or who owns or occupies the unauthorised development.

(c) The designated authority, shall, as soon as may be, after service of notice to a person under clause (a), cause the substance thereof to be published for the information of the public, in such manner as may be prescribed.

TABLE OF FEES

Category of unauthorised development 1	Maximum and minimum fees per square metre 2
A. For uses other than commercial.	
1. Margin and set-backs	Not more than Rs. 1200 and not less than Rs. 600
2. Floor Space Index	Not more than Rs. 2000 and not less than Rs. 700
3. Covered projection	Not more than Rs. 1100 and not less than Rs. 400
4. Change of use	Not more than Rs. 1100 and not less than Rs. 400
5. Common plot and consolidated open plot.	Not more than Rs. 1100 and not less than Rs. 400
6. Height of building	Not more than Rs. 1200 and not less than Rs. 600
B. For commercial use :	(i) Two times of the fees specified for use mentioned in clause A for ground floor and first floor, (ii) One and half times of the fees specified for use mentioned in clause A for floors other than those specified in item (i).
C. In land measuring not exceeding one hundred square metres.	Fifty per cent. of the fees specified for use mentioned in clause A or as the case may be clause B.

(3) (a) Subject to the provisions of clause (b), upon the compliance of requisitions made under section 4 and specified in the notice, to the satisfaction of the designated authority and on the payment of fees under sub-section (2), such development shall cease to be unauthorised and a certificate to that effect shall be issued to the person by the designated authority in such form as may be prescribed.

(b)(i) The designated authority shall, before receiving the fees and issuing of the certificate under clause (a), consult a committee of experts consisting of three persons, who have knowledge of and experience in structural engineering, fire fighting and town planning respectively, constituted by the designated authority, on the question as to whether the person has, while complying the requisitions complied with the fire safety measures and structural stability requirements as per the National Building Code and the Indian Standard Specifications for the time being in force and it shall be the duty of the committee to advise the designated authority on the question so referred.

(ii) The Committee shall follow such procedure for disposal of its business as may be determined by the designated authority.

(4) An amount deposited by a person with the municipal corporation of a city, the area development authority or, as the case may be, the urban area development authority against unauthorised development shall be set off against the fees to be paid by him under sub-section (2).

(5) Where no notice is served upon a person under sub-section (2) within the period prescribed under that sub-section or where a notice is served upon a person under sub-section (2) but a certificate is not obtained by him under sub-section (3) within such period as may be prescribed, the notice, order or, as the case may be, decision referred to in sub-section (1) shall stand revived.

4. (1) An unauthorised development shall not be regularised under sub-section (2) of section 3 in the case where unauthorised development is carried out on any of the following lands, namely:—

- (i) land belonging to Government, local authority or statutory body or land in respect of which a dispute exists in relation to its title or tenure,
- (ii) land allotted by the Government, local authority or statutory body for a specific purpose,
- (iii) land under alignment of roads indicated in development plan or a town planning scheme or under alignment of a public road or an internal road, of approved lay out,
- (iv) land designated or reserved under a development plan or a town planning scheme,
- (v) water courses and water bodies like tank beds, river beds, natural drainage and such other places,
- (vi) areas earmarked for the purpose of obnoxious and hazardous industrial development.

(2) Unauthorised development may not be regularised if it is inconsistent with—

(a) any law other than the Bombay Provincial Municipal Corporations Act, 1949 and the Gujarat Town Planning and Urban Development Act, 1976 and any rules, bye-laws, regulations, standing orders or orders made thereunder (hereinafter in clause (b) referred to as "the relevant laws") for the time being in force relating to control or regulation of development,

(b) fire safety measures under the relevant law, and

(c) structural stability requirements as per the National Building Code and the Indian Standard Specifications (prescribed by the Bureau of Indian Standards) for the time being in force:

Circumstances in which unauthorised development may or may not be regularised.

Bom. LIX
of 1949.
President's
Act No. 27
of 1976.

Provided that a certificate from the structural engineer authorised by the designated authority certifying compliance of provisions of clause (c) is obtained and submitted to that authority.

(3) (a) The designated authority may regularise any unauthorised development in respect of the following matters, namely:—

- (i) Margins and setbacks,
- (ii) Floor space index,
- (iii) Covered projection,
- (iv) Change of use,
- (v) A common plot and a consolidated open plot,
- (vi) Height of a building.

(b) The designated authority may regularise any unauthorised development in so far as parking and sanitary facilities are concerned subject to the following conditions, namely:—

- (i) A person shall provide such necessary parking facilities in unauthorised development and where it is not so feasible, within such distance not exceeding five hundred metres from the unauthorised development as directed by the designated authority within a period of six months from such direction:

Provided that the designated authority may permit provision of parking facilities at a common place by more than one person.

- (ii) A person shall provide such necessary sanitary facilities in unauthorised development as directed by the designated authority within a period of three months from such direction.

(4) Notwithstanding anything contained in clause (b) of sub-section (2), the designated authority may for the purpose of regularisation direct making of provisions in the unauthorised development as follows, namely: —

(a) In the case of buildings with 100 per cent. built-up area with no space for water storage tank and installation of fire pumps and no provision of alternate means of escape or no provision for fixed fire-fighting installations, the designated authority may, in consultation with the Chief Fire Officer of the municipal corporation, direct the person to provide such fire safety measures as may be specified in the direction within a period of three months from the date of such direction.

(b) In the case of buildings where no space is available within the complex in which they are situated for the construction of underground water storage tanks and installation of fire pumps but adequate means of escapes are available, the designated authority may direct the person to provide common underground water storage tank and fire pumps in such complex at suitable location within a period of three months from the date of direction.

(c) In the case of high-rise buildings having height of fifteen metres or exceeding fifteen metres, the designated authority may permit a person to install diesel-generating set instead of electric supply to the main fire pump within a period of three months.

5. (1) Any person aggrieved by the notice served upon him or notice published under sub-section (2) of section 3 may, within sixty days from the date of the receipt or, as the case may be, the publication of the notice, prefer an appeal to an Appellate Officer, who shall be a person who has held the office of District Judge for a period not less than three years and appointed in this behalf by the State Government for each City or development area. **Appeal.**

Provided that the Appellate Officer may entertain the appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Appellate Officer may, after giving the appellant an opportunity of being heard, pass an order modifying or cancelling the notice as expeditiously as possible.

(3) The decision of the Appellate Officer under sub-section (2) shall be final and shall not be questioned in any court of law.

(4) No appeal under this section by a person who is served with the notice shall be entertained by the Appellate Officer unless the amount of fees payable by him under the notice is deposited with the designated authority:

Provided that where in the opinion of the Appellate Officer deposit of the amount by the appellant is likely to cause undue hardship to him, the Appellate Officer may in his discretion unconditionally or subject to such conditions as he may think fit to impose, dispense with a part of the amount deposited so however that the part of amount so dispensed with shall not exceed fifty per cent. of the amount deposited or required to be deposited.

(5) The Appellate Officer shall receive from the Municipal Fund of the Municipal Corporation of the City or, as the case may be, the Fund of the area development authority or the urban development authority, such monthly salary and allowances as the State Government may from time to time after consultation with the Corporation of the City or, as the case may be, the authority of the development area for which he is appointed, determine.

Bom. LIX of 1949. *Explanation.* - For the purposes of this section, the expression "City" shall have the meaning assigned to it in clause (8) of section 2 of the Bombay Provincial Municipal Corporations Act, 1949.

6. Subject to the rules made under this Act, all fees received under this Act shall be credited to a fund which shall be called the Infrastructure Development Fund and which shall be held by the designated authority in trust for the purpose of augmentation, improvement or creation of an infrastructure facility.

Constitution of Infrastructure Development Fund.

Protection of
action taken
under the
Act.

7. (1) No suit, prosecution or other legal proceedings shall lie against any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceedings shall lie against the State Government or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Removal of
doubt.

8. It is hereby clarified that regularisation of unauthorised development under this Act shall be without prejudice to any civil or the criminal liability to which a person may be subject to under any law.

Power to
make rules.

9. (1) The State Government may, by notification in the *Official Gazette*, and subject to condition of previous publication, make rules for carrying out the purposes of this Act:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions such rules may provide for all or any of the following matters, namely:—

(a) the period within which and the manner in which a notice shall be served under sub-section (2) of section 3 and the manner of publication of substance of notice under clause (c) of that sub-section;

(b) the form in which a certificate shall be issued under sub-section (3) of section 3;

(c) the period within which a certificate shall be obtained under sub-section (3) of section 3;

(d) any other matter, which is to be or may be prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Repeal and
savings.

10. (1) The Gujarat Regularisation of Unauthorised Development Ordinance, 2001 is hereby repealed.

Guj. Ord. 3
of 2001.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

On account of the rapid growth of economic opportunities in and around the major cities of Gujarat, there has been constant influx of the rural population to the urban areas resulting in steep increase in demand for properties for residential, commercial and other uses. This has resulted in feverish construction activities and, several buildings so constructed do not conform to the existing building regulations. Consequently, in the urban areas of the State there have come up a large number of buildings which have been constructed without permission or where permission is granted, constructed in contravention of development and control regulations. The owners and occupants of such buildings have been given notices under the Bombay Provincial Municipal Corporations Act, 1949 or, as the case may be, the Gujarat Town Planning and Urban Development Act, 1976 requiring them to remove, pull down, or alter the buildings. However, the owners and occupants have failed to comply with the requisition of the notice. Administratively, removal or pulling down of large number of buildings is neither feasible nor desirable. Removal, pulling down or alteration of buildings on a large scale is fraught with the possibility of creating law and order problem and hardship to the people as a large number of the people would be rendered homeless who would have to be provided with housing. The social and economic fabric of the society would be disturbed leading to a chaotic situation in the society. In order to avoid such a situation, intervention of the Government by enacting suitable legislation has become a compelling necessity. Faced with similar situation, some other State Governments in the country have also come out with suitable legislation for regularisation.

As the Gujarat Legislative Assembly was not in session, the Gujarat Regularisation of Unauthorised Development Ordinance, 2000 was promulgated on 22nd November, 2000 to regularise the unauthorised development in the urban areas of the State. Thereafter, the Gujarat Legislative Assembly was summoned to meet on the 19th March, 2001 but the said Ordinance could not be replaced by an Act of the State Legislature for want of time. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance would have ceased to operate after the 29th April, 2001, the date on which the period of six weeks from the date of reassembly of the Gujarat Legislative Assembly expired. Therefore it was expedient to take immediate action to continue the operation of the provisions of the said Ordinance. As the Gujarat Legislative Assembly was not in session, the Gujarat Regularisation of Unauthorised Development Ordinance, 2001 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain the important provisions of the Bill:—

Clause 2.— This clause defines certain terms used in the Bill and explains what shall be deemed to be unauthorised development.

Clause 3.— This clause provides for the regularisation of the unauthorised development.

Clause 4.— This clause states the circumstances in which unauthorised development may or may not be regularised.

Clause 5.— This clause provides for appeal to the Appellate Officer.

Clause 6.— This clause provides for the constitution of Infrastructure Development Fund.

Clause 7.— This clause provides for usual indemnity for acts done in good faith.

Clause 9.— This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for the matters specified in sub-clause (2).

PARMANAND KHATTAR

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :—

Clause 3.—(i) Paragraph (a) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the period within which and the manner in which a notice shall be served on a person by the designated authority;

(ii) Paragraph (c) of the said sub-clause (2) empowers the State Government to prescribe by rules, the manner in which, the substance of a notice served on a person under paragraph (a) shall be published, for information of public;

(iii) Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the form in which a certificate shall be issued to a person by the designated authority;

(iv) Sub-clause (5) of this clause empowers the State Government to prescribe by rules the period within which a person shall obtain the certificate referred to therein.

Clause 9.—This clause empowers the State Government to make by notification in the *Official Gazette*, rules generally for carrying out the purposes of the Act, and particularly for all or any of the matters specified in sub-clause (2).

Dated the 23rd July, 2001.

PARMANAND KHATTAR,

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar

Dated the 24th July, 2001.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT MUNICIPALITIES (AMENDMENT)

BILL, 2001

GUJARAT BILL NO. 18 OF 2001.

A BILL

further to amend the Gujarat Municipalities Act, 1963.

It is hereby enacted in the fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Municipalities (Amendment) Act, 2001.

Short title
and
commence-
ment.

(2) It shall be deemed to have come into force on the 1st May, 2001.

Amendment
of section 2
of Guj. 34 of
1964.

2. In the Gujarat Municipalities Act, 1963 (hereinafter referred to as "the principal Act"), in section 2, clause (16) shall be deleted.

Guj. 34 of
1964.

Amendment
of section 64
of Guj. 34
of 1964.

3. In the principal Act, in section 64, —

- (1) in sub-section (1), in clause (b), for the words "for the levy of octroi duty and tolls whereby the octroi duties and tolls respectively", the words "for the levy of tolls whereby tolls" shall be substituted;
- (2) in the marginal note, the words "Joint levy of octroi" shall be deleted.

Amendment
of section
99 of Guj.
34 of 1964.

4. In the principal Act, in section 99, in sub-section (1), —

- (1) clause (iv) shall be deleted;
- (2) in clause (xv), after the words "to any entertainment", the words "or octroi" shall be inserted;
- (3) in the second proviso, paragraph (b) shall be deleted.

Amendment
of
Chapter
VIII of
Guj. 34 of
1964.

5. In the principal Act, in Chapter VIII, in sub-heading (5), the words "Octroi and" shall be deleted.

Deletion
of sections
121 to 125,
128, 129
and 129A
of Guj. 34
of 1964.

6. In the principal Act, sections 121, 122, 123, 124, 125, 128, 129 and 129A shall be deleted.

Amendment
of section
127 of
Guj. 34 of
1964.

7. In the principal Act, in section 127, —

- (1) for sub-section (1), the following shall be substituted,
namely :-

Power to
seize
vehicle or
animal on
non-
payment
of toll.

“(1) In the case of non payment on demand of any toll leviable by a municipality, any person appointed to collect such toll may seize any vehicle or animal on which the toll is chargeable or any part of the burden on such vehicle or animal which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle or animal seized, a list of the property together with a written notice in the form specified in Schedule VI;”;

- (2) in sub-sections (2) and (3), the words “octroi or” wherever they occur, shall be deleted;
- (3) in sub-section (4), the words “octroi, or” shall be deleted;
- (4) in the marginal note, the words “octroi or” shall be deleted.

8. In the principal Act, in section 132, in sub-section (1), in clause (b), the words “an octroi or” shall be deleted.

Amendment
of section 132
of Guj. 34 of
1964.

9. In the principal Act, in section 275, in sub-section (1), clause (1) shall be deleted.

Amendment
of section 275
of Guj. 34 of
1964.

10. In the principal Act, in section 278, in sub-section (2), clause (a) shall be deleted.

Amendment
of section 278
of Guj. 34 of
1964.

Guj. Ord.
5 of
2001.

11. (1) The Gujarat Municipalities (Amendment) Ordinance, 2001 is hereby repealed.

Repeal
and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The municipalities had been authorised under the provisions of the Gujarat Municipalities Act, 1963, to levy and collect the tax known as "octroi".

Octroi, almost universally considered to be an undesirable levy, is a tedious, obnoxious, outdated, regressive tax and practised only in few countries in the world. It is believed that the check-posts, octroi *nakas*, which constitute the key element in the administration of collection of octroi are susceptible to malpractices, besides being a source of harassment to transit vehicles and lead to enormous non-productive man hours.

It has been represented to the Government by the various sections of the society to abolish octroi as it causes undue hardships and harassment to public and also obstructs free flow of trade and commerce. Having regard to the aforesaid facts, the Government had decided to abolish the octroi from the municipal area of municipalities in the State. It was, therefore, considered necessary to amend the provisions relating to octroi of the said Act to that effect.

As the Gujarat Legislative Assembly was not in session, the Gujarat Municipalities (Amendment) Ordinance, 2001 was promulgated to amend the said Act to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 23rd July 2001.

PARMANAND KHATTAR.

By order and in the name of the Governor of Gujarat,

S.S. Parmar,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,

Dated the 24th July, 2001.

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(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 19 OF 2001.

A BILL

further to amend the Bombay Provincial Municipal Corporations Act, 1949.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 2001.

Short title
and com-
mencement.

(2) It shall be deemed to have come into force on the 1st May, 2001.

Amend-
ment of
section 127
of Bom.
LIX of
1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the principal Act"), in section 127, in sub-section (2), for clause (a), the following shall be substituted, namely:--

Bom. LIX
of 1949.

"(a) Octroi on goods other than motor spirit as defined in the Bombay Sales of Motor Spirit Taxation Act, 1958."

Bom. LXVI
of 1958.

Repeal
and
savings.

3. (1) The Bombay Provincial Municipal Corporations (Gujarat Amendment) Ordinance, 2001 is hereby repealed.

Guj. Ord. 6
of 2001.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The State Government had decided to abolish octroi in the State except in the municipal area as defined in clause (34B) of section 2 of the Bombay Provincial Municipal Corporations Act, 1949. Octroi was levied on motor spirit also in municipal area by the municipal corporations under the provisions made in the said Act.

The Government had decided to levy cess on the turnover of sales of motor spirit in the State. It was considered necessary to abolish levy of octroi on motor spirit in municipal areas, so as to bring uniformity in the price of motor spirit in the State. It was therefore, considered necessary to amend clause (a) of sub-section (2) of section 127 of the said Act.

As the Gujarat Legislative Assembly was not in session, the Bombay Provincial Municipal Corporations (Gujarat Amendment) Ordinance, 2001 was promulgated to amend the said Act to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 23rd July, 2001.

PARMANAND KHATTAR.

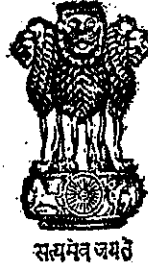
By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,

Dated the 24th July, 2001.



सत्यमेव जयते

The Gujarat Government Gazette EXTRAORDINARY

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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th July, 2001 by Shri Dolatbhai Parmar M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL OF 20 OF 2001.

THE GUJARAT CONTROL OF ORGANISED CRIME BILL, 2001.

A BILL

*to make special provisions for prevention and control of,
and for coping with, criminal activity by organised crime
syndicate or gang and for matters connected therewith or
incidental thereto.*

It is hereby enacted in the Fifty-second year of the Republic of India as follows :--

1. (1) This Act may be called the Gujarat Control of organised Crime Act, 2001.
- (2) It extends to the whole of the state of Gujarat.
- (3) It shall come into force on such date, as the state Government may, by notification in the *Official Gazette* appoint.

Short title,
extent and
commen-
cement.

Definitions

2. (1) In this Act, unless the context otherwise requires-

- (a) "abet" with its gramatical variations and cognate expressions, includes -
 - (i) the communication or association with any person with the actual knowledge or having reason to believe that such person is engaged in assisting in any Manner an organised crime syndicate.
 - (ii) the passing on or publication of, without any lawful authority, any information likely to assist the organised crime syndicate and the passing on or publication of or distribution of any document or matter obtained from the organised crime syndicate; and
 - (iii) the rendering of any assistance, whether financial or otherwise, to the organised crime syndicate;
- (b) "Code" means the Code of Criminal procedure, 1973.
- (c) "Competent Authority" means the Competent Authority appointed under Section 13.
- (d) "Continuing unlawful activity" means an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one chargesheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence.
- (e) "Organised crime" means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency.
- (f) "organised crime syndicate" means a group of two or more person who acting either singly or collectively, as a syndicate or gang indulge in activities of organised crime.
- (g) "Special Court" means the Special Court constituted under Section 5.
- (h) Words and expressions used but not defined in this Act and defined in the code shall have the meaning respectively assigned to them in the code.

3. (1) Whoever commits an offence of organised crime shall -**Punishment
for
organised
crime**

(i) if such offence has resulted in the death of any person, be punishable with death or imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees one lac.

(ii) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees five lacs.

(2) Whoever conspires or attempts to commit or advocates, abets or knowingly facilitates the commission of an organised crime of any act preparatory to organised crime, shall be punishable with imprisonment for a term which shall be not less than five years but which may extend to imprisonment for life and shall also be liable to a fine, subject to minimum fine of rupees five lacs.

(3) Whoever harbours or conceals or attempts to harbour or conceal any members of an organised crime syndicate shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to a fine, subject to a minimum fine of rupees five lacs.

(4) Any person who is a member of an organised crime syndicate shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees five lacs.

(5) Whoever holds any property derived or obtained from commission of an organised crime or which has been acquired through the organised crime syndicate funds shall be punishable with a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine, subject to a minimum fine of rupees two lacs.

4. If any person on behalf of a member of an organised crime syndicate is, or, at any time has been, in possession of movable or immovable property which he cannot satisfactorily account for he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to ten years and shall also be liable to fine, subject to a minimum fine of rupees one lac and such property shall also be liable for attachment and forfeiture, as provided by section 20.

**Punishment
for
possessing
unaccountable
wealth on
behalf of
members of
organised
crime
syndicate.**

**Special
Courts**

5. (1) The State Government may, by notification in the *Official Gazette*, constitute one or more special courts for such area or areas, or for such case or class or group of cases, as may be specified in the notification.

(2) Where any question arises as to the jurisdiction of any special Court, it shall be referred to the State Government whose decision shall be final.

(3) A special Court shall be presided over by a judge to be appointed by the State Government, with the concurrence of the Chief Justice of the Gujarat High Court. The State Government may also appoint with the concurrence of the Chief Justice of the Gujarat High Court, additional judges to exercise jurisdiction in a Special Court.

(4) A person shall not be qualified for appointment as a judge or an additional judge of a special Court, unless he immediately before such appointment, is a sessions judge or an additional sessions judge.

(5) Where any additional judge is or additional judges are appointed in a Special Court, the judge of the Special Court may, from time to time, by general or special order in writing provide for the distribution of the business of the Special Court among himself and the additional judge or additional judges and also for the disposal of urgent business in the event of his absence or the absence of any additional judges.

**Jurisdiction
of Special
Court.**

6. Notwithstanding anything contained in the code, every offence punishable under this Act shall be triable only by the Special Court within whose local jurisdiction it was committed or as the case may be by the Special Court constituted for trying such offence under sub-section (1) of section 5.

**Power of
special
Courts with
respect to
other
offences.**

7. (1) When trying any offence punishable under this Act, a Special Court may also try any other offence with which the accused may, under the code, be charged at the same trial, if the offence is connected with such other offence.

(2) If, in the course of any trial of any offence under this Act, it is found that the accused person has committed any other offence under this Act, or under any other law, the Special Court may convict such person of such other offence and may pass any sentence authorised by this Act, or as the case may be, such other law, for the punishment thereof.

**Public
Prosecutor.**

8. (1) For every Special Court, the State Government shall appoint a person to be the public prosecutor and may appoint one or more persons to be the Additional Public Prosecutor and or [may appoint one or more persons to be the Additional Public Prosecutor or] Additional Public Prosecutor:

Provided that, the State Government may also appoint for any case or group of cases, a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a public prosecutor, an Additional Public Prosecutor or a Special Public Prosecutor unless he has been in practice as an Advocate for not less than ten years.

(3) Every person appointed as a Public Prosecutor or Additional Public Prosecutor or Special Public Prosecutor under this Section shall be deemed to be a public prosecutor within the meaning of clause (u) of section 2 of the code, and the provisions of the code shall have effect accordingly.

**Procedure
and powers
of Special
Courts.**

9. (1) A Special Court may take cognizance of any offence without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence or upon a police report of such facts.

(2) Where an offence triable by a Special Court is punishable with imprisonment for a term not exceeding three years or with fine or with both, the Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the code, try the offence a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code shall, as far as may be, apply to such trial:

Provided that, where in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try in a summary way, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the code for the trial of such offence and the said provisions shall apply to and in relation, to a Special Court as they apply to and in relation, to a Magistrate:

Provided further that, in case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(3) A Special Court may, with a view to obtaining the evidence of any person, supposed to have been directly or indirectly concerned in or privy to an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the code, be deemed to have been tendered under section 307 thereof.

(4) Subject to other provisions of this Act, a Special Court shall for the purpose of trial of any offence, have all the powers of a court of session and shall try such offence if it were a court of session, so far may be in accordance with the procedure prescribed in the code for the trial before a court of session [have precedence over the trial of any other case against the accused in any other court (not being a special Court) and shall be concluded in preference of the trial of such other case and accordingly the trial of such other case shall remain in abeyance.]

**Trial by
Special
Court to
have
precedence.**

10. The trial of any offence under this Act by a Special Court shall have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference of the trial of such other case and accordingly the trial of such other cases shall remain in abeyance.

**Power to
transfer
cases to
regular
Courts.**

11. Where, after taking cognizance of an offence, a Special Court is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any Court having jurisdiction under the Code, and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

Appeal.

12. (1) Notwithstanding anything contained in the Code, an appeal shall lie from any judgement, sentence or order, not being an interlocutory order, of a Special Court to the High Court.

(2) Every appeal under this Section shall be preferred within thirty days from the date of the judgement sentence or order.

**Appointment
of
Competent
Authority.**

13. The State Government may appoint any of its officer, in Home Department, not below the rank of Secretary to Government, to be the Competent Authority for the purposes of section 14.

Authorization
of
interception
of wire
electronic or
oral
Communica-
tion.

14. (1) A Police officer not below the rank of Superintendent of Police supervising the investigation of an organised crime under this Act may submit an application in writing to the competent Authority for an order authorising or approving the interception of wire, electronic or oral communication by the investigating officer when such interception may provide or has provided evidence of any offence involving an organised crime.

(2) Each application shall include the following information :-

- (a) the identity of the investigative or law enforcement officer making the application, and the head of the department authorizing the application.
- (b) a statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including:
 - (i) details as to the offence of organised crime that has been, is being or is about to be committed;
 - (ii) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted ;
 - (iii) a particular description of the type of communications sought to be intercepted ; and
 - (iv) the identity of the person, if known, committing the offence of organised crime whose communications are to be intercepted.
- (c) a statement as to whether or not other modes of enquiry or intelligence gathering have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous or is likely to expose the identity of those connected with the operation of interception ;
- (d) a statement of the period of time for which the interception is required to be maintained. If the nature of the enquiry is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter.
- (e) a statement of the facts concerning all previous applications known to the individual authorising and making the application, made to the Competent Authority for authorization to intercept, or for approval of interceptions of, wire, electronic or oral communications involving any of the same persons, facilities or places specified in the application and the action taken by the Competent Authority on each such application ; and
- (f) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(3) The competent Authority may require the applicant to furnish additional oral or documentary evidence in support of the application.

- (4) Upon such application, the Competent Authority may after recording the reasons in writing reject the application, or issue an order as requested or as modified, authorising or approving interception of wire, electronic or oral communications, if the Competent Authority determines on the basis of the facts submitted by the applicant that -
- (a) there is a probable cause for belief that an individual is committing, has committed, or is about to commit a particular offence described and made punishable under sections 3 and 4 of this Act ;
 - (b) there is a probable cause for belief that particular communications concerning that offence will be obtained through such interception;
 - (c) normal modes of enquiry and intelligence gathering have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous or is likely to expose the identity of those connected with the operation of interception.
 - (d) there is probable cause for belief that the facilities from which, or the place where, the wire, electronic or oral communications are to be intercepted or be used or are about to be used, in connection with the commission of such offence leased to or are listed in the name of or commonly used by such person.
- (5) Each order by the Competent Authority authorizing or approving the interception of any wire, electronic or oral communication under this section shall specify ;
- (a) the identity of the person, if known, whose communications are to be intercepted ;
 - (b) the nature and location of the communication facilities as to which, or the place where, authority to intercept is granted ;
 - (c) a particular description of the type of communication sought to be intercepted and a statement of the particular offence to which it relates ;
 - (d) the identity of the agency authorised to intercept the communications, and of the person authorising the application ; and
 - (e) the period of time during which such interception is authorised, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.
- (6) The Competent Authority shall immediately after passing the order under sub-section (4), but in any case not later than seven days from the passing of the order, submit a copy of the same to the Review Committee constituted under section 15 along with all the relevant underlying papers, record and his own findings, etc. in respect of the said order for consideration and approval of the order by the Review Committee.
- (7) An order authorising the interception of a wire, electronic or oral communications under this section shall, upon request of the applicant, direct that a provider of wire or electronic communication service landlord, custodian or other person shall

furnish to the applicant, forthwith all information, facilities and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the [interception that such] service that such provider, landlord, custodian or person is providing to the person whose communications are to be intercepted.

- (7) No order issued under this section may authorise or approve the interception of any wire, electronic or oral communication for any period longer than is necessary to achieve the objective of the authorisation, nor in any even longer than sixty days. Such sixty days period shall begin on the day immediately preceding the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is issued, whichever is earlier. Extension of an order may be granted but only upon an application for an extension is made in accordance with sub section (1) and the competent Authority making the findings required by sub-section (4). The period of extension shall be no longer than the Competent Authority deems necessary to achieve the purpose for which it was granted and in no event for longer than sixty days at a time. Every order and extension thereof shall contain a provision that the authorisation to intercept shall be executed as soon as practicable and shall be conducted in such a way or manner as to minimise the interception of communications not otherwise subject to interception under this section and must terminate upon attainment of the authorized objective, or in any event on expiry of the period of order. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimisation may be accomplished as soon as practicable after such interception. An interception under this section may be conducted in whole or in part by public servant, or by an individual operating under a contract with the State Government acting under the supervision of the investigative or law enforcement officer authorised to conduct the interception.
- (9) Whenever an order authorising interception is issued pursuant to this section, the order may require reports to be made to the Competent Authority who issued the order showing that progress has been made towards achievement of the authorised objective and the need for continued interception. Such reports shall be made at such intervals as the Competent Authority may require.
- (10) Notwithstanding anything contained in any other provision of this section, an officer not below the rank of Additional Director General of Police who reasonably determines that -
- (a) an emergency situation exists that involves -
 - (i) immediate danger of death or serious physical injury to any person;
 - (ii) conspiratorial activities threatening the security or interest of the state; or
 - (iii) conspiratorial activities, characteristic of organised crime, that requires a wire, electronic or oral communication to be intercepted before an order from the Competent Authority authorising such interception can, with due diligence, be obtained and

- (b) there are grounds upon which an order could be issued under this section to authorise such interception, may authorise, in writing, the investigating Police Officer to intercept such wire, electronic or oral communication, if an application for an order approving the interception is made in accordance with the provisions of sub-section (1) and (2) within forty-eight hours after the interception has occurred, or begins to occur,
- (11) In the absence of an order approving the interception made under sub-section (10), such interception shall immediately terminate when the communication sought is obtained or when the application for the order is rejected, whichever is earlier. In the event where an application for permitting interception is rejected under sub-section (4) or an application under sub-section (10) for approval is rejected, or in any other case where the interception is terminated without an order having been issued, the contents of any wire, electronic or oral communication intercepted shall be treated as having been obtained in violation of this section.
- (12)(a) The contents of any wire, electronic or oral communication intercepted by any means authorised by this section shall, if possible be recorded on tape or wire or other Comparable device. Recording of the contents of any wire, electronic or oral communication under this sub-section shall be done in such a way as will protect the recording from edition or other alterations. Immediately upon the expiration of the period of order, or extension thereof, such recordings shall be made available to the Competent Authority issuing such order and shall be sealed under his directions. Custody of the recording shall be wherever the Competent Authority orders. They shall not be destroyed except upon an order, of the Competent Authority and in any event shall be kept for ten years.
- (b) Applications made and orders issued under this section shall be sealed by the Competent Authority. Custody of the applications and orders shall be wherever the Competent Authority directs, and shall not be destroyed except on an order of the Competent Authority, and in any event shall be kept for ten years.

The Competent Authority upon the filing of a motion, may in his discretion make available to such person or his counsel for inspection such portions of the intercepted communications, applications and orders as the Competent Authority determines to be in the interest of justice.

- (13) Notwithstanding anything in the Code or in any other law for the time being in force, the evidence collected through the interception of wire, electronic or oral communication under this section shall be admissible as evidence against the accused in the Court during the trial of a case:

Provided that, the contents of any wire, electronic or oral communication intercepted pursuant to this section or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing or other proceedings in any court unless each party, not less than ten days before trial, hearing or proceeding, has been furnished with a copy of the order of the Competent Authority and accompanying application, under which the interception was authorised or approved;

Provided further that, this ten days period may be waived by the judge, trying matter, if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing or proceeding and that the party will not be prejudice by the delay in receiving such information.

Explanation.—For the purpose of this section —

- (a) 'wire communication' means any aural transfer made in whole or part through the use of facilities for the transmission of communication by the aid of wire, cable or other like connection between the point of origin and the point of connection, between the point of origin and the point of reception (including the use of such connection in switching station) and such term includes any electronic storage of such communication;
- (b) 'oral communication' means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstance justifying such expectation but such term does not include any electronic communication;
- (c) 'electronic communication' means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photo electronic or photo optical system that effects inland or foreign commerce but does not include;
 - (i) the radio portion of a cordless telephone communication that is transmitted between the wireless telephone hand set and the base unit;
 - (ii) any wire or oral communication;
 - (iii) any communication made through a tone only paging device; or
 - (iv) any communication from a tracking device;
- (d) 'intercept' means the aural or other communication of the contents by wire, electronic or oral communication through the use of any electronic, mechanical or other device.

**Constitution
of Review
Committee
for review of
authorisation
orders.**

15. (1) There shall be a Review Committee to review every order passed by the Competent Authority under section 14.
- (2) The Review Committee shall consist of the following *ex-officio* members, namely :—
- | | | |
|-------|--|----------|
| (i) | the Chief Secretary to Government | Chairman |
| (ii) | the Additional Chief Secretary or the Senior Most Principal Secretary, as the case may be, in the Home Department. | Member |
| (iii) | Secretary And Remem-brancer of legal Affairs, Legal Department. | Member |
- (3) Every order passed by the Competent Authority under Section 14, placed before the Review Committee, shall be considered by the Review Committee within ten days after its receipt, to decide whether the order, authorising or approving the application under sub-section (4) of section 14, for interception or disapproving the interception made under sub-section (10) of that section in emergency situation, passed by the Competent Authority was necessary, reasonable and justified.

- (4) The Review Committee, after examining the entire record and holding such enquiry, if any, deemed necessary may, by order in writing, either approve the order passed by the Competent Authority or may issue order disapproving the same. On issue of an order of disapproval by the Review Committee, the interception, if any, already commenced shall be forthwith discontinued. The intercepted communication, if any, in the form of tape, wire or other device shall, thereupon, not be admissible as evidence in any case and shall be directed to be destroyed.

Interception and disclosure of wire, electronic or oral communications prohibited.

16. Except as otherwise specifically provided in section 14, any police officer who.—

- (a) intentionally intercepts, endeavours to intercept, or procures any other person to intercept or endeavour to intercept any wire, electronic or oral communication;
- (b) intentionally uses, endeavours to use, or procures any other person to use or endeavours to use any electronic, mechanical or other device to intercept any oral communication when —
 - (i) such device is affixed to, or otherwise transmits a signal through a wire, cable, or other like connection used in wire communication; or
 - (ii) such device transmits communications by radio, or interferes with the transmission of such communication;
- (c) intentionally discloses, or endeavours to disclose, to any other person the contents of any wire, electronic or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic or oral communication in violation of this sub-section.
- (d) intentionally uses, or endeavours to use, the contents of any wire, electronic or oral communication, knowing or having reason to know, that the information was obtained through the interception of a wire, electronic or oral communication in violation of this sub-section; or
- (e)
 - (i) intentionally discloses, or endeavours to disclose, to any other person the contents of any wire, electronic or oral communication, intercepted by means authorised by section 14;
 - (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation under this Act;
 - (iii) having obtained or received the information in connection with a criminal investigation; and
 - (iv) with intent to improperly obstruct, impede, or interfere with a duly authorised criminal investigation; or
- (f) intentionally continues the interception of wire, electronic or oral communication after the issue of an order of disapproval by the Review Committee under sub-section (4) of section 15,

shall for such violation be punishable with imprisonment for a term which may extend to one year and with fine upto rupees fifty thousand.

Special Rules of evidence.

17. (1) Notwithstanding anything to the contrary contained in the Code, or the Indian Evidence Act, 1872, for the purposes of trial and punishment for offence under this Act or connected offence, the Court may take into consideration as having probative value the fact that the accused was;

- (a) on any previous occasion bound under section 107 or section 110 of the Code;
 - (b) detained under any law relating to preventive detention; or
 - (c) on any previous occasion was prosecuted in the Special Court under this Act.
- (2) Where it is proved that any person involved in an organised crime or any person on his behalf is or has any time been in possession of movable or immovable property which he cannot satisfactorily account for, the Special Court shall, unless contrary is proved presume that such property of pecuniary resources have been acquired or derived by his illegal activities.
- (3) Where it is proved that the accused has kidnapped or abducted any person, the Special Court presume that it was for ransom.

Certain
confessions
made to police
officer to be
taken into
consideration.

18. (1) Notwithstanding anything in the Code or in the Indian Evidence Act, 1872, I of 1872, but subject to the provisions of this section, a confession made by a person before a police officer not below the rank of the superintendent of police and recorded by such police officer either in writing or on any mechanical devices like cassettes, tapes or sound tracks from which sounds or images can be reproduced, shall be admissible in the trial of such person or co-accused, abettor or conspirator :

Provided that, the co-accused, abettor or conspirator is charged and tried in the same case together with the accused.

- (2) The confession shall be recorded in a free atmosphere in the same language in which the person is examined and as narrated by him.
- (3) The police officer shall, before recording any confession under sub-section (1) explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him and such police officer shall not record any such confession unless upon questioning the person making it, he is satisfied that it is being made voluntarily. The concerned police officer shall, after recording such voluntary confession, certify in writing below the confession about his personal satisfaction of the voluntary character of such confession, putting the date and time of the same.
- (4) Every confession recorded under sub-section (1) shall be sent forthwith to the Chief Metropolitan Magistrate or the Chief Judicial Magistrate having jurisdiction over the area in which such confession has been recorded and such Magistrate shall forward the recorded confession so received to the Special Court which may take cognizance of the offence.
- (5) The person from whom a confession has been recorder under sub-section (1) shall also be produced before the Chief Metropolitan Magistrate or the Chief Judicial Magistrate to whom the confession is required to be sent under sub-section (4) alongwith the original statement of confession, written or recorded on mechanical device without unreasonable delay.
- (6) The Chief Metropolitan Magistrate or the Chief Judicial Magistrate shall acrupulously record the statement, if any, made by the accused so produce and get his signature and in case of any complaint of torture, the person shall be directed to be produced for medical examination before a Medical Officer not lower in rank than of an Assistant Civil Surgeon.

V-EX-20-4

Protection of
witnesses.

19. (1) Notwithstanding anything contained in the Code, the Proceedings under this Act may be held in Camera, if the Special Court so desires.
- (2) A Special Court may, on an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of any witness secret.
- (3) In particular, and without prejudice to the generality of the provisions of sub-section (2) the measures which a Special Court may take under the sub-section may include,
- (a) the holding of the proceedings at a place to be decided by the Special Court;
- (b) the avoiding of the mentioning of the names and addresses of the witnesses in its order or judgements or in any records of the case accessible to public;
- (c) the issuing of any directions for securing that the identity and address of the witnesses are not disclosed;
- (d) that, it is in the public interest to order that all or any of the proceedings pending before such a Court shall not, be published in any manner.
- (4) Any person who contravenes any direction issued under sub-section (3) shall be punishable with imprisonment for term which may extend to one year and with fine which may extend to one thousand rupees.

Forfeiture and
attachment of
property.

20. (1) Where a person has been convicted of any offence punishable under this Act, the Special Court, may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the accused and specified in the order, shall stand forfeited to the State Government, free from all encumbrances.
- (2) Where any person is accused of any offence under this Act, it shall be open to the Special Court trying him, to pass an order that all or any properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction the properties so attached shall stand forfeited to the State Government, free from all encumbrances.
- (3) (a) If, upon a report in writing made by an investigating police officer with the approval of the supervisory officer referred to in sub-section (1) of section 14 any Special Court has reason to believe that any person who has committed an offence punishable under this Act has absconded or is concealing himself so that he may not be apprehended, such Court may, notwithstanding anything contained in section 82 of the code, publish a written proclamation requiring him to appear at a specified place and at a specified time not less than fifteen days but not more than thirty days from the publication of such proclamation :

Provided that, if the investigating police officer concerned fails to arrest the accused, who has absconded or is concealing himself, within a period of three months from the date of registering the offence against such person, the officer shall, on the expiry of the said period, make a report to the Special Court for issuing the proclamation.

- (b) The Special Court issuing a proclamation under clause (a) may, at any time, order the attachment of any property, movable or immovable

or both, belonging to the proclaimed person, and thereupon the provisions of section 83 to 85 of the Code shall apply to such attachment as if such attachment were made under that code.

- (c) If, within six months from the date of attachment, any person, whose property is, or has been, at the disposal of the State Government under sub-section (2) of section 85 of the Code, appears voluntarily or is apprehended and brought before the Special Court by whose order the property was attached, or the court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding apprehension and that he had not received such notice of the proclamation as to enable him to attend within the specified time therein, such property or, if the same has been sold, the net proceeds of the same and the residue of the property, shall, after satisfying therefrom all costs incurred in consequence of the attachment, be delivered to him.

Modified
application of
certain
provisions of
the Code.

21. (1) Notwithstanding anything contained in the Code or in any other law, every offence punishable under this Act, shall be deemed to be cognizable offence within the meaning of clause (c) of section 2 of the Code and "Cognizable case" as defined in that clause shall be construed accordingly.
- (2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modifications that, in sub-section (2),—
- (a) the references to "fifteen days", and "sixty days", wherever they occur, shall be construed as references to "thirty days" and "ninety days", respectively;
- (b) after the proviso, the following proviso shall be inserted namely :—
- "Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Special Court shall extend the said period upto one hundred and eighty days, on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period ninety days."
- (3) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under this Act.
- (4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond, unless —
- (a) the Public Prosecutor has been given an opportunity to oppose the application of such release; and
- (b) where the Public Prosecutor oppose the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.
- (5) Notwithstanding anything contained in the Code, the accused shall not be granted bail if is noticed by the Court that he was on bail in an offence under this Act, or under any other Act, on the date of the offence in question.

- (6) The limitations on granting of bail specified in sub-section (4) are in addition to the limitations under the Code or any other law for the time being in force on the granting of bail.
- (7) The police officer seeking the custody of any person for pre-indictment or pre-trial interrogation from the judicial custody shall file a written statement explaining the reason for seeking such custody and also for the delay, if any, in seeking the Police Custody.

Presumption
as to offences
under
section-3.

22. (1) In a prosecution for an offence of organised crime punishable under section 3, if it is proved —

- (a) that unlawful arms and other material including documents or papers were recovered from the possession of the accused and there is reason to believe that such unlawful arms and other material including documents or papers were used in the commission of such offence;
or

(b) that by the evidence of an expert, the finger prints of the accused were found at the site of the offence or on anything including unlawful arms and other material including documents or papers and vehicle used in connection with the commission of such offence,

the special Court shall presume, unless the contrary is proved, that the accused had committed such offence.

(2) In a prosecution for an offence of organised crime punishable under sub-section (2) of section 3, if it is proved that accused rendered any financial assistance to a person accused of, or reasonably suspected of an offence of organised crime, the Special Court shall presume, unless the contrary is proved, that such person has committed the offence under the said sub-section (2)

23. (1) Notwithstanding anything contained in the code,--

(a) no information about the commission of an offence organised crime under this Act, shall be recorded by a police officer without the prior approval of the police officer below the rank of the Deputy Inspector General of Police;

(b) no investigation of an offence under the provisions of this Act shall be carried out by a police officer not below the rank of the Deputy Superintendent of Police.

(2) No Special Court shall take cognizance of any offence under this Act without the previous action of the police officer not below the rank of Additional Director General of Police.

Cognizance of and investigation into, an offence.

24. Whoever being a public servant renders any help or support in any manner in the commission of organised crime as defined in clause (a) of section 2, whether before or after the commission of any offence by a member of an organised crime syndicate or abstain from taking lawful measures under this Act or intentionally avoids to carry out the directions of any Court or of the superior police officer in this respect, shall be punished with imprisonment of either description for a term which may extend to three years and also with fine.

Punishment for public servants falling in the discharge of their duties.

25. The provisions of this Act or any rule made thereunder or any order made under any such rule shall, have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having the force of law.

Overriding effect.

26. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or authority of the State Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder or any order issued under any such rule.

Protection of action taken in good faith.

27. (1) The State Government shall cause an annual report to be prepared given a full account of:-

Annual Report of Interceptions.

V-EX-25-5

(i) the number of applications for authorisation of interceptions received by the Competent Authority from the Police Department in which prosecutions have been launched;

(ii) the number of such applications permitted or rejected;

(iii) the number of interceptions carried out in emergency situations and the number of ex-post-facto authorisations or approvals granted or rejected in such matters;

(iv) the number of prosecutions launched based on such interceptions and convictions resulting from such interceptions, alongwith an explanatory memorandum giving general assessment of the utility and importance of the interceptions authorised.

(2) Such annual report shall be laid by the State Government before the State Legislature within three months of the completion of every calendar year :

Provided that, if the State Government is of the opinion that the inclusion of any matter in the annual report would be prejudicial to the security of the State or to the prevention or detection of any organised crime, the State Government may exclude such matter from being included in such annual report.

power of High
Court to make
rules.

28. The High Court may, by notification in the official Gazette, make such rules as it may deem necessary for carrying out the provisions of this Act relating to the Special Courts.

powers of
State
Government
to make rules.

29. (1) Without prejudice to the Powers of the High Court to make rule under section 28, the State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made before, the State Legislature, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid the State Legislature agrees in making any modification in the rule or agrees that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Organised crime has been for quite some years now come up as a very serious threat to our society. It knows no national boundaries and is fuelled by illegal wealth generated by contract killings, extortion, smuggling in contrabands, illegal trade in narcotics, kidnappings for ransom, collection of protection money and money laundering, etc. The illegal wealth and black money generated by the organised crime being very huge, it has had serious adverse effect on our economy. It is seen that the organised criminal syndicates make a common cause with terrorist gangs and foster narco terrorism which extend beyond the national boundaries. There is reason to believe that organised criminal gangs have been operating in the State and thus, there is immediate need to curb their activities.

It is also noticed that the organised criminals have been making extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission would be an indispensable aid to law enforcement and the administration of justice.

2. The existing legal frame work i.e., the penal and procedural laws and the adjudicatory system are found to be rather inadequate to curb or control the menace of organised crime. It is, therefore, necessary to enact a special law with stringent and deterrent provisions including in certain circumstances power to intercept wire, electronic or oral communication to control the menace of the organised crime.

3. Hence, this Bill is intended to achieve the above objectives.

Gandhinagar,
Dated the 26th December, 2000.

DOLATBHAI PARMAR
M.L.A.

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

The Bill involves the following proposals for delegation of legislative powers namely :-

Clause 5.— Under this clause power is taken to the State Government to constitute, by notification in the *Official Gazette*, one or more Special Courts for such area or areas, or for such case or class or group of cases, as may be specified by it.

Clause 28.— Under this clause power is taken to the High Court to make, by notification in the *Official Gazette*, such rules as it, may deem necessary, for carrying out the provisions of the Bill relating to Special Courts.

Clause 29.— Under this clause power is taken to the State Government to make, by notification in the *Official Gazette*, rules for carrying out the provisions of the Bill.

2. The above mentioned proposals for delegation of legislative power are of a normal character.

Gandhinagar,
Dated the 26-12-2000.

DOLATBHAI PARMAR
M.L.A.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the constitution of Special Courts by the State Government and also for appointment of Judges and Additional Judges of those Courts. Clause 8 of the Bill provides for appointment of public Prosecutors, Additional Public Prosecutors and Special Public Prosecutors by the State Government.

2. The expenditure towards the setting up of Special Courts by the State Government and towards salaries and allowances of the Judges, Public Prosecutors and staff of such courts will be defrayed out of the Consolidated Fund of the State. As it is not possible at this stage to visualise the number of Special Courts that may have to be established, it is not possible to give an estimate of actual expenditure that may have to be incurred in this behalf.

Gandhinagar,
Dated the 26-12-2000.

DOLATBHAI PARMAR
M.L.A.

Gandhinagar.
Dated the 27th July, 2001.

T. K. DORIA,
Secretary,
Gujarat Legislative Assembly.

V-EX-20-6



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th July, 2001 by Shri Dolatbhai Parmar M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO 21 OF 2001.

THE GUJARAT STATE COMMISSION FOR SAFAI KARMACHARIS BILL, 2001.

A BILL

*to constitute a State Level Commission for
Safai Karmacharis and to provide for matters connected
therewith or incidental thereto.*

WHEREAS it is expedient to enact a special law for upliftment, liberation, rehabilitation and monitoring of various welfare schemes in the State of Gujarat by establishing the State Level Commission for Safai Karmacharis; It is hereby enacted in the Fifty-Second year of the Republic of India as follows :—

CHAPTER 1

PRELIMINARY

1. (1) This Act may be called the Gujarat State Commission for Safai Karmacharis Act, 2001.

Short title,
extent,
commen-
cement and
duration.

- (2) It extends to the whole of the state of Gujarat.
- (3) It shall come into force on such date, as the state Government may, by notification in the *Official Gazette* appoint.
- (4) The term of the Commission shall be for a period of five years:

Provided that the State Government may, reduce the said term or extend the term of the Commission as deemed proper.

Definitions 2. (1) In this Act, unless the context otherwise requires-

- (a) "Chairperson" means the Chairperson of the Commission;
- (b) "Commission" means the Gujarat State Commission for Safai Karmacharis constituted under section 3;
- (c) "Member" means a member of the Commission;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "Safai Karmachari" means a person engaged in, or employed for, manually carrying human excreta or any sanitation work;
- (f) "Vice-Chairman" means Vice-Chairman of the Commission.

CHAPTER II

COMMISSION FOR SAFAI KARMACHARIS

Constitution of Commission and its headquarters. 3. (1) The State Government may, by notification in the *Official Gazette*, constitute a body to be known as the Gujarat State Commission for Safai Karmacharis to exercise the powers conferred and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of, —

- (a) the Chairperson;
- (b) the Vice-Chairperson; and
- (c) five Members,

to be nominated, by the State Government from amongst the persons engaged in social economic, educational development and welfare of Safai Karmacharis:

Provided that at least one of the Members shall be a woman.

(3) The headquarters of the Commission shall be a place as may be declared by the State Government by notification in the *Official Gazette*.

**Term of
office and
conditions
of service of
Chairperson.
Vice-
Chairperson
and
Members.**

4. (1) The Chairperson, the Vice-Chairperson and every Member shall hold office for such a period, not exceeding three years, as may be specified by the State Government in this behalf.

(2) The Chairperson, Vice-Chairperson or a Member may, by notice in writing addressed to State Government, resign from the office of the Chairperson, the Vice-Chairperson or as the case may be, of a Member at any time.

(3) The State Government shall remove the person from the office of the Chairperson, the Vice-Chairperson or a Member if that person,—

- (a) becomes an un-discharged insolvent;
- (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;
- (c) becomes of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting or discharging his duties;
- (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or
- (f) in the opinion of the State Government, has so abused the position of the Chairperson, the Vice-Chairperson or a Member, as to render that person's continuance in such office detrimental to the public interest;

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) Notwithstanding anything contained, in sub-sections (1) and (3), all the office bearers of the Commission shall hold office during the pleasure of the state Government and may be removed at any time before the expiry of their term of office.

(5) A vacancy caused under sub-sections (2), (3) or (4), or otherwise shall be filled by fresh nomination and a person so nominated shall hold office for the unexpired period of the term for which his predecessor in office would have held the office if such vacancy had not arisen.

**Bom. XLVII
of 1956.**

(6) The Chairperson of the Commission shall enjoy the status of the Minister of State of the Government of Gujarat and he shall be entitled to salary and allowances payable to, and all other allowances

available to the Minister of State under the Gujarat Ministers' Salaries and Allowances Act.

(7) The salaries and allowances payable to, and the terms and conditions of service of the Vice-Chairpersons and the Members shall be such as may be prescribed.

5. (1) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

Officers and other employees of Commission.

(2) The salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Vacancy, etc. not to invalidate proceedings of Commission.

7. (1) The Commission shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.

Procedure to be regulated by Commission.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Chairperson or any other officer of the Commission duly authorised by the Chairperson in this behalf.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

8. (1) The Commission shall perform all or any of the following functions, namely :-

Functions and powers of Commission.

(a) recommend to the State Government specific programmes of action towards elimination of inequalities in status, facilities and opportunities for Safai karmacharis under a time-bound action plan;

(b) study and evaluate the implementation of the programmes and schemes relating to the social and economic rehabilitation of Safai Karmacharis and make recommendation to the State Government for better co-ordination and implementation of such programmes;

(c) Visit various establishment of the state Government, and Semi-Government institutions and also aided institutions; and to obtain information, or to adviser or make suggestions to the said institutions;

(d) investigate specific grievances and take *suo-moto* notice of matters relating to non-implementation of --

(i) programmes or schemes in respect of any group of Safai Karmacharis;

(ii) decisions, guidelines or instruction aimed at mitigating the hardship of Safai Karmacharis;

(iii) measures for the social and economic upliftment of Safai Karmacharis;

(iv) the provisions of any law in its application to Safai Karmacharis, and take up such matters with the concerned authorities or with the State Government ;

(e) make periodical reports to the State Government of any matter concerning Safai Karmacharis, taking into account any difficulties or disabilities being encountered by Safai Karmacharis ;

(f) deal with any other matter which may be referred to it by the State Government.

(2) In the discharge of its functions under sub-section (1), the commission shall have power to call for information with respect to any matter specified in that sub-section from State Government or local or other semi-Government authority.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT REPORT

**Grants by
State
Government.**

9. (1) The State Government shall, after due appropriation made by the state Legislature by law, in this behalf, pay to the commission by way of grants from the Consolidated Fund of the State, such sums of money as the State government may think fit for being utilised for the purpose this Act.

(2) the Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums of money shall be treated as expenditure payable out of the grants referred to in sub-section (1).

**Accounts
and audit**

10. (1) The commission shall maintain proper accounts and other relevant record and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Accountant General of the state of Gujarat.

(2) The annual accounts of the Commission shall be audited by the Accountant General of the State at such intervals as may be specified by him any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant General.

(3) the Accountant General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act, shall have the same rights and privileges and the authority.

in connection with such audit as the Accountant General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, account, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Accountant General or any other person duly appointed or authorised by him in this behalf, together with the audit report, thereon shall be forwarded annually to the State Government, by the Commission.

CHAPTER V

Miscellaneous

Chairperson, Vice-Chairperson, Members and staff of Commission to be public servants.

11. The Chairperson, the Vice-Chairperson, the members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

12. The State Government shall consult the Commission on all major policy matters affecting Safai Karmacharis.

State Government to consult Commission.

13. The Commission shall prepare its annual report, in such form and at such time, for each financial year as may be prescribed, giving a full account of its activities during the previous financial year and submit a copy thereof to the State Government.

Annual Report.

14. (1) The State Government shall cause the annual report to be laid before the State Legislature explaining the action taken or proposed to be taken on the recommendations contained therein in so far as they relate to the State Government and the reasons for non-acceptance, if any, of such recommendations.

Annual Report to be laid before Legislative Assembly.

(2) Where the said report or any part thereof relates to any matter which Central Government is concerned, a copy of such report shall be forwarded to the Government of India for further necessary action.

15. The Commission may, by general or special order, delegate to the Chairperson, the Vice-Chairperson or any Member or to any officer of the Commission, subject to such conditions and limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit.

Delegation of powers.

16. No suit, prosecution or other legal proceedings shall lie against the Chairperson, the Vice-Chairperson, the Members or any officer or other employees of the Commission and the State Government, for anything which is good faith done or intended to be done under this Act.

Protection of action taken in good faith.

17. (1) The State Government may, by notification in the *Official Gazette*, make rule for carrying out the provisions of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may be provided for all or any of the following matters, namely:—

(a) salaries and allowances payable to, and the other terms and conditions of service of the Vice-Chairperson, and the Members under sub-section (7) of section 4 and officers and other employees of the Commission under sub-section (2) of section 5;

(b) the form in which the annual statement of accounts shall be prepared in consultation with the Accountant General of the State of Maharashtra under section 10;

(c) the form in, and time at, which the annual report shall be prepared and submitted under section 13;

(d) any other matter which is required to be, or may be, prescribed for the purposes of this Act;

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

STATEMENT OF OBJECTS AND REASONS

The scavengers and sweepers constitute the most vulnerable section of the society. The practice of carrying night-soil on head is not only inhuman and unhygienic for the persons involved in this practice but is responsible for spreading insanitation in the area and results in the practice of untouchability, a social stigma, which has gripped our nation for the last so many decades.

2. Various schemes have, from time to time, been introduced by the Central Government as well as the State Government to improve the conditions of Safai Karmacharis. However, these schemes have not been successful in improving the conditions of safai karmacharis to the desirable level. Therefore, the Government of India had introduced the National Scheme for Liberation and rehabilitation of the Scavengers and their dependents in the year 1992-93 and has also established a National Commission for Safai Karmacharis by enacting a special Act called the National Commission for Safai Karmacharis Act, 1993. To supplement and actively support the efforts of the Central Government to achieve this just and human cause it is necessary to constitute a separate State Level Commission for the Safai Karmacharis, by enacting a special law in the State, on the lines of the National Commission for Safai Karmacharis constituted under the said Central Act. The State Commission for Safai Karmacharis aims at monitoring, co-ordinating and implementing the various welfare schemes introduced by the State Government for the liberation, upliftment and rehabilitation of the Safai Karmacharis in the State.

3. The Bill seeks to achieve the above objectives.

GANDHINAGAR

Dated : 28th February, 2001.

DOLATBHAI PARMAR

M.L.A.

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

This Bill involves the delegation of the following legislative powers, namely :—

(1) *Clause 1 (3).*— Under this clause power is taken to the State Government to bring the Act into force, by notification in the *Official Gazette*, on such date as the State Government may appoint.

(2) *Clause 3 (1).*— Under this clause power is taken to the State Government to constitute a body to be known as the Gujarat State Commission for Safai Karmacharis by notification in the *Official Gazette*,

(3) *Clause 3 (3).*— Under this clause power is taken to the State Government to declare the head quarter of the Commission by notification in the *Official Gazette*.

(4) *Clause 17* — This clause empowers the State Government to make rules generally to carry out the provisions of the Act and particularly for matters specified in sub-clause (2) thereof.

2. The above proposals for delegation of legislative power are of normal character.

GANDHINAGAR
Dated : 28th February, 2001.

DOLATBHAI PARMAR
M.L.A.

FINANCIAL MEMORANDUM

The provisions of the Bill involves the following expenditure from the Consolidated Fund of the State:—

(a) The Bill provides for the establishment of the Commission for Safai Karmachari in the State creation of certain posts, salaries and allowances payable to the Chairperson, Vice-Chairperson and Members of the Commission and the salaries and allowances payable to the officers and employees for which the State Government will have to bear an annual recurring expenditure of Rs. 13.66 lakhs. Besides, the items like furniture, etc., for the office of the Commission, an amount of Rs. 7.83 lakhs will be needed as non-recurring expenditure.

(b) For the establishment of the Commission, the total annual expenditure for the first year will be Rs. 21.50 lakhs. Thereafter, every year the Government will have to bear an amount of Rs. 13.66 lakhs as recurring expenditure.

GANDHINAGAR

Dated : 28th February, 2001.

DOLATBHAI PARMAR

M.L.A.

Gandhinagar.

Dated the 27th July, 2001.

T. K. DORIA,

Secretary,

Gujarat Legislative Assembly.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th July, 2001 by Shri Dolatbhai Parmar M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 22 OF 2001.

**THE GUJARAT SCHEDULED CASTES, SCHEDULED TRIBES,
DENOTIFIED TRIBES (VIMUKTA JATIES) NOMADIC TRIBES AND
OTHER BACKWARD CLASSES (REGULATION OF ISSUANCE AND
VERIFICATION OF) CASTES CERTIFICATES BILL, 2001.**

A BILL

*to provide for the regulation of the issuance and verification of the Castes
Certificates to the persons belonging to the Scheduled Castes, Scheduled Tribes,
De-notified Tribes (Vimukta Jaties), Nomadic Tribes and Other Backward Classes
and for matters connected therewith or incidental thereto.*

Where as it is expedient to provide for the regulation of the issuance and verification of the Castes Certificates to the persons belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jaties), Nomadic Tribes and other Backward Classes and for matters connected therewith or incidental thereto. It is hereby enacted in the Fifty-second year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jaties), Nomadic Tribes and other Backward Classes (Regulation of Issuance and, Verification of) Caste Certificate Act, 2001.

Short title,
extends and
commence-
ment.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date, as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Caste Certificate” means the certificate issued by the Competent Authority to an applicant indicating therein the Scheduled Caste Scheduled Tribes, De-notified Tribe (*Vimukta Jaties*), Nomadic Tribe or other Backward Class as the case may be, to which such applicant belongs;

(b) “Competent Authority” means a officer or authority authorised by the Government, by notification in the *Official Gazette*, to issue a Caste Certificate, for such area or for such purposes as may be specified in the said notification and shall include all the Competent Authorities already designated by the Government before the coming into force of this Act, having jurisdiction over the area or place to which the applicant originally belongs, unless specified otherwise;

(c) “De-notified Tribes (*Vimukta Jaties*)” means the Tribes, declared as such by Government from time to time;

(d) “Educational institution” means any School, Junior College, Degree College, College of Education, Polytechnic, Industrial Training Institute, College of Fine Arts and Architecture, College of Music and Dance, Engineering College, Agricultural College, Veterinary College, Medical College, Dental College, Ayurvedic College, Homeopathic College, Unani College, Nurses Training School, Health Visitors Training School, Vocational Training Institution, Deemed University Open, University and various colleges under the control of any University established by or under an Act of the State Legislature and such other Institution, by whatever name called, which is carrying on (either exclusively or among other activities) the activity of imparting education as may be notified by the Government from time to time;

(e) “Government” means the Government of Gujarat;

(f) “Local Authority” means in relation to local areas comprised within the jurisdiction of a Municipal Corporation, the concerned Municipal Corporation and in relation to any other local area in the State, the concerned Municipality District Panchayat, Taluka Panchayat, Industrial Township, Nagar Panchayat or Village Panchayat, having the jurisdiction over such local area;

(g) “Nomadic Tribes” means tribes wandering from place to place in search of their livelihood as declared by Government from time to time;

(h) “Other Backward Classes” means any Socially and Educationally Backward Classes of citizens as declared by the Government and includes Other Backward Classes declared by Government of India in relation to the State of Gujarat;

(i) “prescribed” means prescribed by rules made by the Government under this Act;

(j) “Scheduled Castes” and “Scheduled Tribes” shall have the meanings respectively assigned to them in clause (24) and clause (25) of Article 366 of the Constitution of India;

(k) “Scrutiny Committee” means the Committee or committees constituted under sub-section (1) of section 6 for the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jaties*), Nomadic Tribes or Other Backward Classes for verification of the Caste Certificate and to perform the function of Scrutiny Committee under this Act;

3. Any person belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jaties*), Nomadic Tribes or Other Backward Classes required to produce a Caste Certificate in order to claim the benefit of any reservation provided to such Castes, Tribes or Classes, either in any public employment or for admission into any educational institution, or any other benefit under any special provisions made under clause (4) of Article 15 of the Constitution of India or for the purpose of contesting for elective post in any local authority or in the Co-operative Societies; or for purchase or transfer of land from a tribal land-holder or any other purposes specified by the Government, shall apply in such form and in such manner as may be prescribed, to the Competent Authority for the issue of a Caste Certificate.

Application
for a Caste
Certificate.

4. (1) The Competent Authority may, on an application made to it under section 3, after satisfying itself about the genuineness of the claim and following the procedure as prescribed, issue a Caste Certificate within such time limit and in such form as may be prescribed or reject the application for reasons to be recorded in writing.

Caste
Certificate to
be issued by
Competent
Authority.

(2) A Caste Certificate issued by any person, officer or authority other than the Competent Authority shall be invalid. The Caste Certificate issued by the Competent Authority shall be valid only subject to the verification and grant of validity certificate by the Scrutiny Committee.

5. (1) Any person aggrieved by an order rejection of application passed by the Competent Authority under sub-section (1) of section 4 may, within thirty days from the date of receipt of order, appeal to the Appellate Authority specified by the Government by notification in the *Official Gazette*.

Appeal.

(2) The Appellate Authority may within a period of three months, after giving the appellant an opportunity of being heard and after satisfying itself about the genuineness or otherwise of the claim of the appellant either confirm the rejection order, or set aside the order of the Competent Authority and direct the Competent Authority to issue the caste certificate.

6. (1) The Government shall constitute by notification in the *Official Gazette*, one or more Scrutiny Committee(s) for verification of Caste Certificates issued by the Competent Authorities under sub-section (1) of section 4 specifying in the said notification the functions and the area of jurisdiction of each of such Scrutiny Committee or Committees.

Verification of
Caste
Certificate by
Scrutiny
Committee.

(2) After obtaining the Caste Certificate from the Competent Authority, any person desirous of availing of the benefits or concessions provided to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jaties*), Nomadic Tribes or Other Backward Classes for the purposes mentioned in section 3 may make an application, well in time, in such form and in such manner as may be prescribed, to the concerned Scrutiny Committee for the verification of such Caste Certificate and issue of a validity certificate.

(3) The appointing authority of the Central or State Government, local authority, public sector undertakings, educational institutions, Co-operative Societies or any other Government aided institutions shall, make an application in such form and in such manner as may be prescribed by the Scrutiny Committees for the verification of the Caste Certificate and issue of a Validity certificate, in case a person selected for an appointment with the Government, local authority, public sector undertakings, educational institutions, Co-operative Societies or any other Government aided institutions who has not obtained such certificate.

(4) The Scrutiny Committee shall follow such procedure for verification of the Caste Certificate and adhere to the time limit for verification and grant of validity certificate, as prescribed.

7. (1) Where, before or after the commencement of this Act, a person not belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jaties*), Nomadic Tribes or Other Backward Classes has obtained a false Caste Certificate to the effect that either himself or his children belong to such Castes, Tribes or Classes,

Confiscation
and
cancellation of
false Caste
Certificate.

GOVERNMENT OF INDIA, MINISTRY OF SOCIAL JUSTICE, NEW DELHI
the Scrutiny Committee may, *suo motu*, or otherwise call for the record and enquire into the correctness of such certificate and if it is of the opinion that the certificate was obtained fraudulently, it shall, by an order cancel and confiscate the certificate by following such procedure as prescribed, after giving the person concerned an opportunity of being heard, and communicate the same to the concerned person and the concerned authority, if any.

(2) The order passed by the Scrutiny Committee under this Act shall be final and shall not be challenged before any authority or court except the high Court under Article 226 of the Constitution of India.

**Burden of
proof.**

8. Where an application is made to the Competent Authority under section 3 for the issue of a Caste Certificate in respect of Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jaties*), Nomadic Tribes or Other Backward Classes and in any enquiry conducted by the Competent Authority and Scrutiny Committee or the Appellate Authority under this Act or any trial of offence under this Act, the burden of proving that the person belonged to such Caste, Tribe or Class shall be on such claimant applicant.

Civil Court
powers to
Competent
Authority,
Appellate
Authority and
Scrutiny
Committee.

9. The Competent Authority, the Appellate Authority and the Scrutiny Committee shall, while holding an enquiry under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 and in particular in respect of the following matters, namely :-

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any Court or office; and
- (e) issuing Commissions for the examination of witnesses or documents.

Benefits
secured on the
basis of false
Caste
Certificate to
be withdrawn.

10. (1) Whoever not being a person belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes or other Backward Classes.

Secures admission in any educational institution against a seat reserved for such Castes, Tribes or Classes, or secures any appointment in the Government, local authority or in any other Company or Corporation, owned or controlled by the Government or in any Government aided institution or Co-operative Society against a post reserved for such Castes, Tribes or Classes by producing a false Caste Certificate shall, on cancellation of the Caste Certificate by the Scrutiny Committee, be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment by such person as aforesaid shall be withdrawn forthwith.

(2) Any amount paid to such person by the Government or any other agency by way of scholarship, grant, allowance or other financial benefit shall be recovered from such person as an arrears of land revenue.

(3) Notwithstanding anything contained in any Act for the time being in force, any Degree, Diploma or any other educational qualification acquired by such person after securing admission in any educational institution on the basis of a Caste Certificate which is subsequently proved to be false shall also stand cancelled on cancellation of such Caste Certificate by the Scrutiny Committee;

(4) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for being a member of any statutory body if he has contested the election for local authority, Co-operative Society or any statutory body on the seat reserved for any of Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, or other Backward Classes

by procuring a false Caste Certificate as belonging to such Caste, Tribe or Class on such false Caste Certificate being cancelled by the Scrutiny Committee, and any benefits obtained by such person shall be recoverable as arrears of land revenue and the election of such person shall be deemed to have been terminated retrospectively.

11. (1) Whoever.-

- (a) obtains a false Caste Certificate by furnishing false

Offences
and
penalties.

information or filing false statement or documents or by any other fraudulent means; or

(b) not being a person belonging to any of the Scheduled Caste, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, or other Backward Classes secures any benefits or appointments exclusively reserved for such Castes, Tribes or Classes in the Government, local authority or any other Company or Corporation owned or controlled by the Government or in any Government aided institution, or secures admission in any educational institution against a seat exclusively reserved for such Castes, Tribes or Classes or is elected to any of the elective offices reserved for such Castes, Tribes or Classes, by producing a false Caste Certificate;

shall, on conviction, be punished, with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years or with fine which shall not be less than two thousand rupees, but which may extend upto twenty thousand rupees or both.

(2) No court shall take cognizance of an offence punishable under this section except upon a complaint, in writing, made by the Scrutiny Committee or by any other officer duly authorised by the Scrutiny Committee for this purpose.

2 of 1974.

12. Notwithstanding anything contained in the Code of Criminal Procedure, 1973.—

(a) offences punishable under section 11 shall be cognizable and non-bailable;

(b) every offence punishable under this Act, shall be tried by any Magistrate of First Class in a summary way and provisions of section 262 (except sub-section (2), to 265 both inclusive of this Code, shall as far as possible may be applied to such trial.

Offences under Act to be cognizable and non-bailable.

Penalty for issuing false Caste Certificate.

13. (1) Any person or authority performing the functions of Competent Authority under this Act, who intentionally issues a false Caste Certificate, shall on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years or with fine which shall not be less than two thousand rupees, but which may extend upto twenty thousand rupees or both.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government.

Penalty for abatement.

14. Whoever abets any offence punishable under this Act shall be punished with the punishment provided for in this Act for such offence.

Bar of jurisdiction of Civil Courts.

15. No Civil Court shall have jurisdiction to entertain, to continue or to decide any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order, if the claim involved in such suit or proceeding, or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

Protection for acts done in good faith.

16. No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

Provisions of
this Act to be
in addition to
any other law
time being in
force.

17. The provisions of this Act shall be in addition to the provisions of any other law for the time being in force.

Power to make
rules.

18. (1) The Government may, subject to the previous publication by notification in the *Official Gazette*, make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following if the State Legislature agrees in making any modification in the rule or agrees that the rule should not be made and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

19. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

It has been noticed that the incidents of procuring false Caste Certificates, in respect of Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vinukta Jatis*), Nomadic Tribe or other Backward Classes have reached alarming figure, Such false Caste Certificate not only enable the ineligible persons to avail of the concessions and reservations in the matter of securing employment or admission in the educational institutions or contesting for or being elected to any of the effective offices reserved for the benefit of the aforesaid Castes, Tribes and Classes, but also result in depriving the genuine members of the said Castes, Tribes and Classes of the said concessions and reservations. thereby defeating the very purpose of such concessions and reservations.

2. The Hon'ble Supreme Court in its judgement dated the 18th April 1995, in the case of Director of Tribal Welfare, Government of Andhra Pradesh *Versus* Laveti Giri and another has also desired that "the Government of India should have the matter examined in greater details and bring about a uniform legislation with necessary guidelines and rules prescribing penal consequences on persons who flout the Constitution and corner the benefits reserved for the real tribals, etc. so that the menace of fabricating the false records and to gain unconstitutional advantage by plain/spurious persons could be prevented."

3. As the existing instructions issued by Government, from time to time, are found to be inadequate, to curb this menace, it is necessary to undertake a suitable legislation for regulating the issue of the Caste Certificate and verification of such certificate and also providing for deterrent punishment for those who indulge in such illegal activity.

4. This Bill is intended to achieve the above objectives.

Gandhinagar,
Dated the 26-12-2000.

DOLATBHAI PARMAR
M.L.A.

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

The Bill involves the following proposals for delegation of legislative powers namely :-

Clause 1 (2).— Under this clause power is taken to the State Government to bring the Act into force on such date as it may, by notification in the *Official Gazette*, appoint.

Clause 2(b).— This clause empowers the State Government, by notification in the *Official Gazette*, to authorise a officer or authority to issue a Caste Certificate, for such area or for such purposes as may be specified in the said notification.

Clause 5 (1).— This clause empowers the State Government, to specify the Appellate Authority by notification in the *Official Gazette*, to whom appeal shall be made.

Clause 6 (1).— This clause empowers the State Government, by notification in the *Official Gazette*, to constitute one or more Scrutiny Committees for verification of Caste Certificates issued by the Competent Authorities and to specify the functions and the area of jurisdiction of each of such Scrutiny Committee or Committees.

Clause 18 (1).— This clause empowers the State Government, to make rules, subject to the previous publication in the *Official Gazette*, for carrying out the purposes of the Act.

Clause 19 (1).— This clause empowers the State Government, on occasion arises to issue an order for removal of difficulty in giving effect to the provisions of the Act.

The above mentioned delegation of legislative power is of a normal character.

Gandhinagar,
Dated the 26-12-2000.

DOLATBHAI PARMAR
M.L.A.

Gandhinagar
Dated the 27th July, 2001.

T. K. DORIA,
Secretary
Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



सत्यमेव जयते

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may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th July, 2001 by Shri Dolatbhai Parmar M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO 23 OF 2001.

THE GUJARAT SOCIAL SECURITY BILL, 2001.

A BILL

to provide for the establishment of the Gujarat Social Security Fund with a view to render assistance in the form of pension to senior citizens, widows and destitute women, dependent children, disabled persons and to provide other similar social security measures for the matter connected therewith.

It is hereby enacted in the Fifty second Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Gujarat Social security Act, 2001.
- (2) It shall come into force at once.

Definitions.

2. (1) In this Act, unless the context otherwise requires,-
 - (a) "collecting authority" means the authority as specified in sub-section (1) of section 6;
 - (b) "Fund" means the Gujarat Social Security Fund constituted under section 4;
 - (c) "Government" means the Government of the State of Gujarat
 - (d) "prescribed" means prescribed by rules made under this Act;
 - (e) "Scheduled Bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

(f) "Section" means section of this Act; and

(g) "Social security measure" means pension for old persons financial assistance to widows and destitute women, dependent children and disabled persons.

(2) The words and expressions used in this Act, but not defined shall have the same meaning as assigned to them in the Gujarat Sales Tax Act, 1969.

...
of 1969

Levy of Cess.

3. Notwithstanding anything contained in any other law for the time being in force and subject to the rules made under this Act, there shall be levied for the purposes of this Act, a cess on *ad-valorem* basis at the rate of ten percent on all the sales and purchases, of goods made under the Gujarat Sales Tax Act, 1969 effected after coming into force of this Act, except the goods declared to be of special importance in Inter State trade or commerce under section 14 of the Central Sales Tax Act, 1956.

...
of
1956Constitution
of Fund.

4. (1) There shall be constituted a Fund to be called the Gujarat Social Security Fund, in the manner as may be prescribed.

(2) The Fund shall vest with the Government.

Purpose for which
the Fund may be
applied.

5. (1) The Fund shall be applied for the purposes as may be prescribed.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Fund shall be applied for the following purposes, namely:-

(a) old age pension scheme;

(b) financial assistance to the widows and destitute women

(c) financial assistance to the dependent children;

(d) financial assistance to the disabled persons; and

- (e) any other social security measures incidental to the above purposes as approved by the Government.

Provided that the Fund shall be utilised in order for the purposes specified in clause (a) to (e).

Manner of
collection of cess.

6. (1) The authorities empowered to assess, re-assess or collect tax under the Gujarat Sales Tax Act, 1969, shall assess, re-assess or collect the cess levied under this Act from a dealer registered under the Gujarat Sales Tax Act, 1969 at the stage specified under the Gujarat Sales Tax Act, 1969.

(2) The cess levied under sub-section (1), shall be collected in such manner, as may be prescribed.

(3) The authorities referred to in sub-section (1), shall deposit the proceeds of cess collected from a dealer either in cash or by cheque in a specified account to be opened in a Scheduled Bank and operated by the Government.

Procedure of
maintenance
of accounts
and
submission of
returns.

7. The procedure of maintenance of accounts and submission of returns of cess levied under this Act, shall be the same as has been prescribed in the Gujarat Sales Tax Rules, 1970.

Procedure for
deposit of Fund
and meeting
obligations.

8. (1) The proceeds of cess collected under sub-section (1) of section 6, shall be deposited in the Fund within such period from the date of collection of such cess, as may be prescribed.

(2) The Government shall open account in any of the Scheduled Banks for managing and carrying out the transactions with respect to the Fund.

(3) The Government may,-

- (i) after meeting their obligation as specified in sub-section (2) of section 5, invest the surplus Fund including the Government securities in such manner, as it may deem fit;
- (ii) constitute one or more advisory committees or engage suitable advisors to advise the Government for the efficient utilisation of the Fund;
- (iii) enter into and perform all such agreements, as it may think necessary or expedient for performing any of its functions; and
- (iv) perform such other acts, as it may think necessary or expedient for the proper conduct of its functions and for carrying into effect the purposes of the Act.

Power of the
Government to
borrow and
raise money.

9. The Government may borrow and raise money in such manner as it thinks fit and secure the repayment of any money borrowed or raised, by mortgage, charge, standard security, lien or other security upon the whole or any part of Government assets (whether present or future), and also by a similar mortgage, charge standard security, lien or Security, guarantee for the performance of any obligation or liability, it may undertake or which may become binding on it.

Audit.

10. The accounts of the Fund shall be audited by the Local Fund Examiner, Gujarat.

Protection of
action taken in
good faith

11. No suit, prosecution or other legal proceeding shall lie against the Government or any other officer of the Government in respect of anything, which is done in good faith or intended to be done in pursuance of the provisions of the Act, rules made or any order issued thereunder.

Power to make rules.

12. (1) The Government may, by notification, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,

(a) constitution, powers, functions, objectives for utilisation of the Fund under section 4 and 5;

(b) the manner of collection of cess as provide in section 6;

(c) the period within which the amount is to be transferred to the Fund under sub-section (1) of section 8; and

(d) any other matter which has to be or may be prescribed.

(3) Every rule made under this section, shall be laid as soon as may be, after it is made, before the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which, it is laid or the successive sessions as aforesaid, the house agrees in making any modification in the rules or the house agrees that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to
remove
difficulties.

13. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, make such provisions including any adaptation or modification of any provision of this Act, as appears to the Government to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of the Act.

STATEMENT OF OBJECTS AND REASONS

Social Security should be a priority programme for the State and it should be determined to cater to the requirements of the aged, infirms, destitutes, widows disabled and needy persons of the Society. The Government should grant old age pension, widow pension, financial assistance to dependent children and disabled persons. But it is possible that the Government may experience financial problems in providing timely release of pension and other financial assistance to the beneficiaries which involve financial liability of about 100 crores. As such to ensure timely release of pension and other financial assistances to the beneficiaries, it is necessary to levy Social Security Cess and establish Social Security Fund. The objective and purpose of the Social Security Fund include the provision of pensions to the old age persons, financial assistance to dependent children, widows, destitute and disabled persons in the State.

Hence, the Bill

GANDHINAGAR
DATED 28/2/2001

DOLATBHAI PARMAR
M.L.A.

FINANCIAL MEMORANDUM

A cess, on ad valorem basis on all sale and purchase of the goods except declared to be of special importance in inter-state trade of commerce by Section 14 of the Central Sales Tax Act, 1956, shall be levied. The cess shall be levied at the rate of 10% of the rate of sales/purchase tax applicable under the Gujarat Sales Tax Act, 1969 from time to time. This will be deposited in a fund to be called Social Security Fund which shall vest with the Government and it shall be applied for the social security measures like old age pensions and other financial assistance schemes of the department.

2. The sales tax authorities will assess, re-assess collect and enforce, payment of Social Security Cess under the Gujarat Sales Tax Act, 1969. The Cess will be deposited in the Gujarat Social Security Fund which shall be utilized to grant pensions.

GANDHINAGAR
DATED 28/2/2001

DOLATBHAI PARMAR
M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the State Government to prescribe the manner for constituting the Gujarat Social Security Fund.

Sub-clause (1) of clause 5 of the Bill empowers the State Government to prescribe the purposes for application of the Fund.

Sub-clause (2) of Clause 6 empowers the State Government to prescribe the manner for collecting the cess levied under the Act.

Sub-clause (1) of Clause 8 empowers the State Government to prescribe the period within which the proceeds of the cess collected under the Act shall be deposited in the Fund.

Clause 12 of the Bill empowers the State Government to make rules to carrying out the purposes of the Bill. The powers sought to delegated are necessary for the proper implementation of the provisions of the Bill and are normal in nature.

GANDHINAGAR
DATED 28/2/2001

DOLATBHAI PARMAR
M. L. A.

Gandhinagar

Dated the 27th July, 2001

T. K. DORIA,
Secretary
Gujarat Legislative Assembly.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th July, 2001 by Shri Parsottambhai Rupala M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 24 OF 2001.

THE GUJARAT PREVENTION OF EXTENSION OR RE-EMPLOYMENT OF GOVERNMENT EMPLOYEES AFTER SUPERANNUATION BILL, 2001.

A BILL

to provide for the prevention of extension or re-employment of Government employees after attaining the age of superannuation in the State of Gujarat and for matters connected therewith.

It is hereby enacted in the Fifty-Second Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Prevention of Extension or Re-employment of Government Employees after Superannuation Act, 2001.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

Short title
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires—

- (i) "extension or re-employment" means giving extension for a particular period or giving re-employment for a particular period to Government employees who have retired on attaining the age of superannuation.
- (ii) "Government Employee" means and includes any Class-I, Class-II or Class-III employee of the State Government.
- (iii) "Government" means the Government of the State of Gujarat.

Prevention of
extension or
re-employment
after
superannuation.

3. No Government Employee shall be given extension or re-employment after attaining the age of superannuation in any Government or Semi-Government office or in any Board or Corporation constituted or owned by the State Government.

STATEMENT OF OBJECTS AND REASONS

The State Government now-a-days in many cases has started giving extension or re-employment to Government employees on their original posts or in Government Board/Corporations after attaining their superannuation age. This has created unhealthy atmosphere and depressions amongst their next juniors, who are otherwise, eligible for promotion and waiting for their turn. It may sometimes happen that such juniors retire without getting promotion, though they are eligible for it. Hence this has badly affected the administration, reflecting the bad picture of the administration in the minds of general public.

This has also created unemployment position as well as unhealthy atmosphere amongst educated younger generation, waiting for job opportunity in the State administration.

The State Government has to bear more financial burden, as the employee getting extension or re-employment are drawing highest pay by this time, hence no benefit on the part of the State Government.

It is, therefore, high time now that steps should be taken through legislation to prevent this practice, as there is no such effective Laws and rules, which can prevent Government to do so.

Hence, this Bill.

Dated the 24th January, 2001
Gandhinagar.

PARSOTTAMBHAI RUPALA,
M.L.A.

Gandhinagar

Dated the 27th July, 2001.

T. K. DORIA,
Secretary
Gujarat Legislative Assembly



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th July, 2001 by Shri Mahendra Mashru M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 25 OF 2001.

THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS' PENSION (REPEAL) BILL, 2001.

A BILL

*to repeal the Gujarat Legislative Assembly member's
Pension Act, 1989.*

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Legislative Assembly Members' Pension (Repeal) Act, 2001. Short title and commencement.
- (2) It shall be deemed to have come into force on the 8th August, 1989, i.e. the date on the which the Gujarat Act No. 18 of 1989 has come into force.
2. The Gujarat Legislative Assembly Member's Pension Act, 1989 (Gujarat Act No. 18 of 1989) is hereby repealed. Repeal of Gujarat 18 of 1989.

STATEMENT OF OBJECTS AND REASONS

The Pension Act provides for giving pension to all Members of the Gujarat Legislative Assembly who have served as a Member for one or more terms. It does not make any exception and all Members are entitled to receive the pension irrespective of their financial condition. Members are joining public services on their own. Nobody is compelling them to join the public service and contest the election.

Hence this bill.

Gandhinagar,
Dated 29th March, 2001.

MAHENDRA MASHRU
M. L. A.

Gandhinagar
Dated the 27th July, 2001.

T. K. DORIA,
Secretary,
Gujarat Legislative Assembly



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th July, 2001 by Shri Dolatbhai Parmar M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 26 OF 2001.

THE GUJARAT ROADS AND BRIDGES DEVELOPMENT BOARD BILL, 2001.

A BILL

to provide for the establishment of the Gujarat Roads and Bridges Development Board with a view to improve the quality of Roads and Bridges infrastructure in the state of Gujarat and for matters connected therewith.

It is hereby enacted in the Fifty Second Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Roads and Bridges Development Board Act, 2001.

Short title and
commencement.

- (2) It shall come into force at once.

2. In this Act, unless there is anything repugnant to the context,-

Definition.

- (a) "Board" means the Gujarat Roads and Bridges Development Board established under section 3;
- (b) "bridge" means a permanent or temporary bridge on a plan road and shall include such other permanent or temporary bridges or Ferry services as may, from time to time, be undertaken for construction or improvement by the Government;
- (c) "Fund" means the Gujarat Roads and Bridges Development Fund constituted under section 7;
- (d) "Government" means the Government of Gujarat
- (e) "National Highway" means a National Highway specified in the Schedule appended to the National Highways Act, 1956;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "plan road" means a road or part of a road other than a National Highway or a link road and shall include such other road or part of a road, as may from time to time be undertaken for construction or improvement by the Government;
- (h) "regulation" means regulations made by the Board under this Act; and
- (i) "section" means section of this Act.

48 of
1956.

Establishment
of Board, its
constitution
powers and
duties.

3.

(1) The Government may, by notification, for exercising the powers conferred on a and performing the functions and duties assigned to the Board by or under this Act, establish the Gujarat Roads and Bridges Development Board.

(2) The Board, established in terms of sub-section (1) shall consist of a Chairman, Vice Chairman and the following other members, namely;-

(i) Chief Minister, Gujarat	Chairman
(ii) Minister Roads & Buildings	Vice-Chairman
(iii) Chief Secretary	Member
(iv) Secretary Finance	Member
(v) Secretary Planning	Member
(vi) Secretary Transport	Member
(vii) Secretary	Member-Secretary

(3) The Board constituted in terms of sub-section (2), shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act to acquire, borrow and raise commercial loans and hold property and shall by the said name, sue and be sued.

(4) The Government shall exercise general superintendence and control over the Board and its employees and may call for such information, as it may deem necessary.

(5) Subject to the rules made under this Act, an estimate of annual income and expenditure of the Board for the ensuing Financial Year shall be got prepared by the Member-Secretary of the Board and shall be submitted to the Board for approval.

(6) An annual statement of income and expenditure of the Board shall be got prepared by the Member-Secretary and after obtaining approval of the Board, the same shall be sent to the Government within a period of three months from the date of the closure of the Financial Year.

Audit.

4. The accounts of the Fund constituted under sub-section (1) of section 7, shall be audited by the Local Fund Examiner, Gujarat.

Officers and
employees of
the Board.

5. (1) The Board may, with the approval of the Government, create such posts and appoint such officers and other employees thereon, as it may consider necessary for the efficient discharge of its functions

(2) The conditions of service of officers and other employees referred to in sub-section (1), and their functions and duties shall be such, as may be regulated by the regulations made by the Board.

Gujarat-1
of 1970
Bombay LXV
of 1958.

6. (1) Notwithstanding any provision to the contrary contained in any other law for the time being in force and subject to the rules made under this Act, there shall be levied for the purposes of this Act, a fee at a rate not exceeding ten percent to be notified by the Government, on the duty leviable under the Gujarat Sales Tax Act, 1964 and the Bombay Motor Vehicles Tax Act, 1958.

Levy and
Collection of
fee.

(2) The fee levied under sub-section (1), shall be collected by the Department concerned in the prescribed manner.

(3) The proceeds of the fee levied under sub-section (1), shall be transferred by the Department concerned directly to the Fund.

(4) The arrears of fee levied under sub-section (1), shall be recoverable as arrears of land revenue.

7. (1) There shall be constituted a Fund to be called the Gujarat Roads and Bridges Development Fund, which shall vest in the Board established under section 3.

Constitution
of Fund.

(2) The Fund constituted under sub-section (1), shall be administered by the Member-Secretary of the Board under the superintendence and control of the Board. The Fund shall have the following contributions, namely:-

(i) the amount of fee levied and collected under section 6;

(ii) an annual grant of one hundred crores of rupees from the State Government with an annual increase of ten per cent every year;

(iii) the income accrued to the Department of Roads & Buildings from various uses of land belonging to it;

(iv) all types of toll taxes collected by the Department of Roads & Buildings.

(v) all contributions received from the Government of India like Central Roads Fund, Railway Safety Fund, funds from the Schemes for Economic and Inter-State Importance Projects, Border Area Development Programme, Special Area Assistance Scheme or any other Scheme approved by the Government of India for Roads and Bridges Infrastructure in the State of Gujarat.

(vi) additional income to the Department of Road and Buildings from road side advertisements, petrol pumps and weigh bridges' leases including any other miscellaneous receipt after the commencement of this Act;

(vii) donations and private contributions; and

(viii) any other funds, which the State Government may subsequently decide to contribute to the Fund.

Purposes for
which the Fund
may be applied.

8. The Fund shall be applied on Plan Roads for the purposes specified as under:-

(i) construction of new roads;

(ii) improvements like raising, widening and strengthening of the existing roads;

(iii) replacement of old and unsafe bridges;

(iv) construction of new bridges;

(v) repair and maintenance of roads; and

(vi) any other purpose pertaining to the improvement of roads and bridges infrastructure as may be considered necessary by the Board.

Protection of
action taken in
good faith.

9. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the government or the Board in respect of anything, which is in good faith done or intended to be done in pursuance of this Act, rules and regulations made or any order issued thereunder.

Power to make
rules.

10. (1) The Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,-

(a) the preparation and submission for sanction of an estimate of annual income and expenditure under sub-section (5) of section 3:

(b) the manner in which the fee shall be collected under sub-section (2) of section 6; and

(c) any other matter which has to be or may be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

11. (1) The Board may, from time to time, with the previous approval of the Government, make regulations not inconsistent with this Act

Power to make
regulations.

and the rules made thereunder for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for;-

(a) transacting business at the meeting of the Board, and

(b) the conditions of service of the officers and other employees of the Board and their functions and duties under sub section (2) of section 5.

12. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order make such provision including any adaptation or modification of any provision of this Act, as appears to the Government to be necessary or expedient for the purpose of removing the difficulty;

Power to
remove
difficultie

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

Gujarat has a large net work in planned roads and bridges in the State. This net work requires immediate up gradation to cater to the present day heavy vehicular movement. Gujarat is a leading agricultural and industrial State. Because of poor condition of roads and bridges infrastructure in the State, further industrial and agricultural growth is being hampered. The State Government due to acute scarcity of resources has not been able to provide adequate funds for repair, maintenance and improvement of plan roads and bridges out of its normal budget. Accordingly there is dire need of mobilizing additional resources and setting up of an independent Roads and Bridges fund with a view to facilitating adequate earmarked availability of funds for plan roads and bridges infrastructural improvements. This Bill seeks to meet this objective. This step would enable the State Government to earmark funds to the extent of about Rs. 250.00 crores on annual basis, which would take care of growing needs of this important sector of development.

Hence this Bill

GANDHINAGAR
DATE 28/2/2001

DOLATBHAI PARMAR
M. L. A.

FINANCIAL MEMORANDUM

These proposals are basically aimed at earmarking dedicated funds for the improvement of Roads and Bridges infrastructure in the State. These proposals would enable the State Government to earmark funds to the extent of about Rs. 250.00 crores on yearly basis from the consolidated fund of the State.

GANDHINAGAR
DATE 28/2/2001

DOLATBHAI PARMAR
M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the State Government to make regulations for carrying out the purposes of the Bill.

The powers sought are necessary for the proper implementation of the provisions of the Bill and are of normal in nature.

Clause 3 of the Bill empowers the Government to establish the Gujarat Roads and Bridges Development Board.

Sub-clause (1) of clause 6 empowers the Government to notify the rate for levy and collection of fee at the rate not exceeding ten percent on the duty leviable under the Gujarat Sales Tax Act, 1964 and the Bombay Motor Vehicles Tax Act, 1958. Sub-clause (2) empowers the Government to prescribe manner for collecting the fee.

Clause 10 empowers the Government to make rules for carrying out the purposes of the Act.

GANDHINAGAR
DATE 28/2/2001

DOLATBHAI PARMAR
M. L. A.

Gandhinagar

Dated the 27th July, 2001.

T. K. DORIA,
Secretary
Gujarat Legislative Assembly.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS' PENSION (REPEAL) BILL, 2001.

GUJARAT BILL NO. 27 OF 2001.

A BILL

to repeal the Gujarat Legislative Assembly Members' Pension Act, 1984.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Legislative Assembly Members' Pension (Repeal) Act, 2001.

Short title and
commencement.

- (2) It shall be deemed to have come into force on the 8th August, 1989.

Repeal and
savings.

2. (1) The Gujarat Legislative Assembly Members' Pension Act, 1984 shall stand repealed.

Guj.18 of
1989.

- (2) The repeal of the said Act shall not affect any payment already made by the State Government under the said Act in pursuance of any direction, judgement or order of the court.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Legislative Assembly Members' Pension Act, 1984 was enacted to provide for payment of pension to persons who had served as Members of the Gujarat Legislative Assembly. Some sections of the then members of the Gujarat Legislative Assembly did not favour the enactment of the Act. Thus, the said Act was hesitatingly published as an Act and brought into force but has not been implemented.

Even after the passage of such a long time, public resistance has not been mitigated. Recently, there was a mounting public demand for the repeal of the Pension Act. Having regard to the will of the people and other aspects, it is considered necessary to repeal the said Act with the retrospective effect.

This Bill seeks to achieve the aforesaid object.

Dated the 6th August, 2001.

SURESHCHANDRA MEHTA.

By order and in the name of the Governor of Gujarat,

V.M. KOTHARE,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 6th August, 2001.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published
in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker
given under the proviso to rule 127A of the Gujarat Legislative Assembly
Rules :—

THE GUJARAT TAX ON LUXURY COMMODITIES (AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 28 OF 2001.

A BILL

*further to amend the Gujarat Tax on Luxury Commodities
Act, 1995.*

It is hereby enacted in the Fifty-second Year of the Republic of
India as follows :—

1. (1) This Act may be called the Gujarat Tax on Luxury
Commodities (Amendment) Act, 2001.

Short title
and
commencement.

(2) It shall come into force on the 1st September, 2001.

Substitution of
section 5 of
Guj. 14 of
1995.

2. In the Gujarat Tax on Luxury Commodities Act, 1995 (hereinafter referred to as "the principal Act"), for section 5, the following section shall be substituted, namely :-

Guj. 14 of
1995.

Levy of tax on
stock of com-
modities of
luxury.

"5. There shall be levied on the stock of any of the luxury commodities received by a stockist during a year, a tax at the rate set out against each of them in column 3 in the Schedule. The tax shall be levied on the aggregate value of such stock."

Substitution
of Schedule to
Guj. 14 of
1995.

3. In the principal Act, for the Schedule, the following Schedule shall be substituted, namely :-

"SCHEDULE

(See clause (4) of section 2 and section 5)

Serial No.	Description of Luxury commodity	Rate of Tax
1	2	3
1.	Cheroots	Five per cent. of the aggregate value of stock.
2.	Cigarettes	Five per cent. of the aggregate value of stock.
3.	Cigars	Five per cent. of the aggregate value of stock.
4.	Smoking mixtures for pipes and cigarettes	Five per cent. of the aggregate value of stock.
5.	<i>Gutkha</i>	Twenty per cent. of the aggregate value of stock.
6.	<i>Pan Masala</i> with tobacco or <i>Gutkha</i>	Twenty per cent. of the aggregate value of stock."

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Tax on Luxury Commodities Act, 1995, with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 26th July, 2001.

Dated the 18th August, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 20th August, 2001.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL (GUJARAT AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 29 OF 2001.

A BILL

*further to amend the Bombay Rents, Hotel and Lodging
House Rates Control Act, 1947.*

It is hereby enacted in the Fifty-second Year of the Republic
of India as follows:—

1. (1) This Act may be called the Bombay Rents, Hotel
and Lodging House Rates Control (Gujarat Amendment) Act,
2001.

Short title
and
commence-
ment.

(2) It shall be deemed to have come into force on the
30th March, 2001.

Amendment
of section 3
of Bom.
LVII of
1947.

2. In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (2), for the words, figures and letters "the 31st day of March, 2001", the words, figures and letters "the 31st day of March, 2011" shall be substituted.

Bom. LVII
of 1947.

Insertion of
new section
11B in
Bom. LVII
of 1947.

3. In the principal Act, after section TIA, the following new section shall be inserted, namely:—

Right of
tenants in
new
building
when
premises
damaged or
destroyed
due to
natural
calamity.

"11B. Notwithstanding anything contained in this Act, where by reason of earthquake or any other natural calamity, any material part of the premises is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let,—

(a) the landlord shall erect new building at the original site, subject to the provisions of any rules, bye-laws or regulations, made by a local authority, not later than twelve months from the date on which material part of premises of the building is wholly destroyed or rendered substantially and permanently unfit:

Provided that the State Government may for sufficient reasons extend the said period of twelve months to such further period not exceeding twelve months as it thinks fit.

(b) the tenant shall have the right to occupy a tenement in the new building erected at the original site by the landlord, and

the provisions of sections 17B and 17C shall, so far as may be, apply."

Amendment
of section
12 of
Bom. LVII
of 1947.

4. In the principal Act, in section 12, after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) Notwithstanding anything contained in this Act, where by reason of earthquake or any other natural calamity, any material part of premises is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let, the landlord shall not be entitled to—

(a) standard rent and permitted increases due for the premises,

(b) recover possession of such premises merely on the ground of non payment of standard rent and permitted increases due, during the period in which such premises remained so destroyed or unfit."

PROGRAMME AND SCHEME TO THE PRINCIPAL ACT

5. In the principal Act, in section 17D,—

Amendment
of section
17D of
Bom.LVII
of 1947.

(1) sub-section (1) shall be renumbered as clause (a) of that sub-section and in clause (a) as so renumbered,—

(i) after the words, figure and letter " of section 11A", the words, brackets, figure and letters " or as the case may be, in clause (a) of section 11B" shall be inserted;

(ii) for the words "exist or not", the words, figure and letter "or section 11B exist or not" shall be substituted;

(2) after clause (a) as so renumbered, the following clause shall be inserted, namely:—

" (b) The terms and conditions for providing accommodation to tenants after erection of new building shall be such as may be prescribed."

6. In the principal Act, in section 49, in sub-section (2), after clause (aai), the following clause shall be inserted, namely:—

Amendment
of section 49
of Bom.LVII
of 1947.

" (aaai) the terms and conditions for providing accommodation to tenants under clause (b) of sub-section (1) of section 17D "

Guj. Ord. 1
of 2001.

7. (1) The Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Ordinance, 2001 is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The object underlying the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 *inter-alia* is to prohibit landlords from increasing the rent above the maximum permitted under the Act. It conforms security of tenure on tenants and permits landlord to recover possession only on certain specified grounds. This Act was due to expire on the 31st March, 2001. As the problem of housing in the State of Gujarat still continues to be acute, it is considered necessary to extend the duration of the Act for a further period of ten years, i.e. upto 31st March, 2011.

New section 11B proposed to be inserted in the Act *inter alia* provides that where by reason of earthquake or any other natural calamity, any material part of the premises is destroyed or rendered unfit for use, the landlord shall erect new building at the original site within a period of twelve months which can be extended by the Government, in case of necessity, for a further period of twelve months. A provision has also proposed to be made that the tenant shall have right to occupy a tenement in the new building erected at the original site by the landlord.

With a view to giving protection to a tenant from eviction, it was considered necessary to insert a new sub-section (1B) in section 12 to provide that the landlord shall not be entitled to recover possession of the premises on the ground of non-payment of standard rent and permitted increase during the period in which such premises remained so destroyed or unfit.

It was also considered necessary to amend section 17D so as to provide that if the landlord fails to erect new building within the period specified in clause (a) of section 11B, the original site shall vest in the State Government free from all encumbrances, for the purpose of erection of new building to provide accommodation to the tenant.

For this purpose, a Bill called the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Bill, 2001 (Gujarat Bill No. 8 of 2001) was published with a view to introducing it in the last session of the Gujarat Legislative Assembly but could not be taken up by the House.

As the Gujarat Legislative Assembly was not in session, the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Ordinance, 2001 was promulgated to amend the said Act to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature, with a modification in Section 3 which extends the duration of the Act for a period of ten years i.e. upto 31st March, 2011.

NAROTTAMBHAI PATEL

FINANCIAL MEMORANDUM

Sub-section (1) of section 17D of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, proposed to be amended by sub-clause (1) of clause 5 of the Bill which, if enacted, and brought into operation, would involve expenditure from the Consolidated Fund of the State. The said sub-section (1) renumbered as clause (a) of that sub-section which is proposed to be amended by this Bill provides for payment of such compensation, to be determined by the Collector, to the landlord in respect of the site vested in the State Government. The number and area of sites which may vest in the State Government and the amount of compensation that may be determined by the Collector in respect of each such site under that sub-section cannot be anticipated. In these circumstances, it is not possible to give an estimate of an amount of compensation which would be required to be paid from the Consolidated Fund of the State under the aforesaid sub-section.

NAROTTAMBHAI PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

Clauses 5 and 6.— New clause (b) proposed to be inserted in sub-section (1) of section 17D and new clause (aaai) proposed to be inserted in sub-section (2) of section 49, by clauses 5 and 6 of the Bill empower the State Government to prescribe by rules, the terms and conditions, for providing accommodation to tenants after erection of new building.

The delegation of the legislative power as aforesaid is necessary and is of a normal character.

Dated the 23rd August, 2001.

NAROTTAMBHAI PATEL.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 23rd August, 2001.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY MOTOR VEHICLES TAX (GUJARAT SECOND AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 30 OF 2001.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Second Amendment) Act, 2001.

Short title and
commence-
ment.

(2) It shall come into force on the 1st September, 2001.

Bom. LXV of
1958.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), in section 3,—

Amendment of
section 3 of
Bom. LXV of
1958.

(1) in sub-section (1), for the words "Sixth and Seventh", the words "Sixth, Seventh, Eighth and Ninth" shall be substituted;

(2) in the first proviso, after the words "Sixth Schedule", the words "or Eighth Schedule" shall be inserted.

3. In the principal Act, in section 4, in sub-section (1AB), for the words "Sixth Schedule or Seventh Schedule", the words "Sixth Schedule, Seventh Schedule, Eighth Schedule or Ninth Schedule" shall be substituted.

Amendment of
section 4 of
Bom. LXV of
1958.

Amendment of
section 11 of
Bom. LXV of
1958.

4. In the principal Act, in section 11, in sub-section (2), in clause (c), for the words "EIGHTH SCHEDULE", the words "TENTH SCHEDULE" shall be substituted.

Amendment of
section 25 of
Bom. LXV of
1958.

5. In the principal Act, in section 25, for the words "NINTH SCHEDULE", the words "ELEVENTH SCHEDULE" shall be substituted.

Amendment of
First Schedule
to Bom. LXV
of 1958.

6. In the principal Act, in FIRST SCHEDULE, in Part I, in clause III, entries (a), (b) and (c) shall be deleted.

Amendment of
Eighth
Schedule to
Bom. LXV of
1958.

7. In the principal Act, the existing EIGHTH SCHEDULE shall be renumbered as "TENTH SCHEDULE".

Amendment of
Ninth Sched-
ule to Bom.
LXV of 1958.

8. In the principal Act, the existing NINTH SCHEDULE shall be renumbered as "ELEVENTH SCHEDULE".

Insertion of
new Schedules
in Bom. LXV
of 1958.

9. In the principal Act, after SEVENTH SCHEDULE, the following Schedules shall be inserted, namely:--

"EIGHTH SCHEDULE"

(See section 3)

Motor vehicles registered in the State of Gujarat on or after the 1st September, 2001 and used for the carriage of goods or materials.

Maximum rate
of lump sum tax

Rs.

Part I *Motor Vehicles using motor spirit, compressed natural gas or operated by Electric Battery or solar energy.*

Motor vehicles (including tricycles) used for the carriage of goods or materials--

(a) Vehicles the registered laden weight of which does not exceed 750 KG.	9,000
(b) Vehicles the registered laden weight of which exceeds 750 KG but does not exceed 1500 KG.	15,000
(c) Vehicles the registered laden weight of which exceeds 1500 KG but does not exceed 3000 KG ;	25,000

Provided that where a tax on motor vehicle is levied by any local authority, the maximum rate of tax under this clause for motor vehicles registered for use solely within the limits of such local authority shall,—

(i) in cases where such motor vehicles are wholly or partially exempted by such local authority from the tax levied by such local authority, be the rates specified in this clause;

(ii) in any other case, be two-thirds of the rates so specified.

Part II *Motor vehicles using fuel other than motor spirit, compressed natural gas or operated by electric battery or solar energy.*

The rates shown in Part I plus a surcharge of fifty per cent. on all or any class of motor vehicles mentioned therein.

NINTH SCHEDULE

(See section 3)

Motor vehicles specified in the Eighth Schedule registered in the State of Gujarat before the 1st September, 2001 and the motor vehicles registered in any other State and brought for use or keeping for use in the State of Gujarat on or after the 1st September, 2001.

If the age of the vehicle from the month of registration is--		Rate of <i>lump sum</i> tax.
1.	not more than 2 years	95% of the tax.
2.	more than 2 years but not more than 3 years	90% of the tax.
3.	more than 3 years but not more than 4 years	85% of the tax.
4.	more than 4 years but not more than 5 years	80% of the tax.
5.	more than 5 years but not more than 6 years	75% of the tax.
6.	more than 6 years but not more than 7 years	70% of the tax.
7.	more than 7 years but not more than 8 years	65% of the tax.
8.	more than 8 years but not more than 9 years	60% of the tax.
9.	more than 9 years but not more than 10 years	55% of the tax.
10.	more than 10 years but not more than 11 years	50% of the tax.
11.	more than 11 years but not more than 12 years	45% of the tax.
12.	more than 12 years but not more than 13 years	40% of the tax.
13.	more than 13 years but not more than 14 years	35% of the tax.
14.	more than 14 years.	30% of the tax.

Explanation.— For the purposes of this Schedule, the expression 'tax' means the tax leviable under the Eighth Schedule."

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Bombay Motor Vehicles Tax Act, 1958, the tax on motor vehicles used for the carriage of goods or materials is levied annually or half yearly. In the Budget Speech of the Finance Minister in the Gujarat Legislative Assembly on the 26th July, 2001, it is proposed to levy *lump sum* tax on smaller light goods vehicles the registered laden weight of which does not exceed 3,000 Kg. With a view to giving effect to the aforesaid Budget proposal, it is proposed to insert Eighth Schedule and Ninth Schedule in the Act.

Dated the 23rd August, 2001.

BIMAL SHAH.

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,

Dated the 23rd August, 2001.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 23rd August, 2001
by Shri Mahendra Mashru M.L.A. is published under rule 127-A of the
Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 31 OF 2001.

THE BOMBAY ANIMAL PRESERVATION (GUJARAT AMENDMENT) BILL, 2001.

A BILL

further to amend the Bombay Animal Preservation Act, 1954.

It is hereby enacted in the Fifty-second Year of the Republic of India as
follows:-

Short title
and
com-
mence-
ment.

1. (1) This Act may be called the Bombay Animal Preservation (Gujarat
Amendment) Act, 2001.

(2) It shall come into force at once.

Substitu-
tion of
section 8
of Bom.
LXXII of
1954.

2. In the Bombay Animal Preservation Act, 1954, for section 8, the following section shall be substituted, namely :

Bom. LXXII
of 1954.

Penalties.

“(8) Whoever contravenes any of the provisions of this Act shall, on conviction, be punished with minimum imprisonment of five years for each offence and with minimum fine of rupees one thousand per animal”.

STATEMENT OF OBJECTS AND REASONS

The existing Provisions of the Bombay Animal Preservation Act, 1954 Provides for penalties for contravention of any of the provisions of the Act, the punishment of imprisonment for a term which may extend to six months or fine which may extend to one thousand rupees or both.

After this Act came into force the amount of fine has not been increased so far. In the present economy the amount of rupees one thousand is very ignorable for entire offence. Therefore, it is proposed to fix the minimum amount of fine of rupees one thousand per animal.

Looking to the increasement of serious offences against animals the punishment of imprisonment upto six months seems to be insufficient. Therefore, it is proposed to fix the minimum imprisonment of five years, for each offence.

This Bill seeks to achieve the aforesaid objects.

Gandhinagar.

MAHENDRA MASHROO.

Dated the 27th July, 2001.

M.L.A.

Gandhinagar,
Dated the 23rd August, 2001.

T. K. DORIA,
Secretary,
Gujarat Legislative Assembly.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 32 OF 2001.

A BILL

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :-

1. (1) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 2001. Short title and commencement.
- (2) It shall come into force on the 1st September, 2001.

Amendment of
section 2 of
Bom. LX of
1958.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in section 2, in clause (g) –

Bom. LX of
1958.

- (i) in sub-clause (iii), the word "or" shall be deleted;
- (ii) in sub-clause (iv), for the words "amalgamation of companies", the words "reconstruction or amalgamation of companies, or" shall be substituted;
- (iii) after sub-clause (iv), the following sub-clause shall be inserted, namely :-

"(v) any writing or letter of allotment in respect of the premises, given to its members or allottee by a co-operative society registered or deemed to have been registered under the Gujarat Co-operative Societies Act, 1961 or a corporation or an association formed and registered under the Bombay Non-Trading Corporation Act, 1959 or the Gujarat Ownership Flat Act, 1973, as the case may be."

Guj. X of 1962.

Bom. XXVI of
1959.

Guj. 13 of 1973.

Amendment of
section 32A of
Bom. LX of
1958.

3. In the principal Act, in section 32A, in sub-section (1), after the words "shall be accompanied by a true copy thereof", the words, "and the Statement in such form as may be prescribed by rules" shall be inserted.

Substitution of
section 48 of
Bom. LX of
1958.

4. In the principal Act, for section 48, the following section shall be substituted, namely :-

Period within
which
application for
relief under
section 47 to be
made.

"48. The application for relief under section 47 shall be made within the following period, that is to say, –

- (a) in the cases mentioned in sub-clause (5) of clause (c), within six months from the date of execution of the instruments;
- (b) in the case of an instrument substituted by another and not presented for cancellation, within six months from the date of execution of the substituting instrument;
- (c) in all other cases, within six months from the date of purchase of impressed stamps."

5. In the principal Act, after section 52 B, the following section shall be inserted, namely :-

Insertion of
new section 52C
in Bom. LX of
1958.

Invalidation of
stamps and
savings.

"52C. Notwithstanding anything contained in sections 47, 50, 51 and 52, -

Guj. of 2001.

- (a) any impressed stamps which have been purchased on or after the date of commencement of the Bombay Stamp (Gujarat Amendment) Act, 2001 (hereinafter referred to as "the said date") shall be used or presented for claiming allowance within a period of six months from the date of purchase. Any such stamps which have not been used or no allowance has been claimed in respect thereof within the period of six months from the date of purchase shall be rendered invalid;
- (b) any impressed stamps which have been purchased but have not been used or no allowance has been claimed in respect thereof before the said date, may be used or presented for claiming the allowance under the relevant provisions of the Act within a period of six months from the said date. The stamps which have not been used or presented within the aforesaid period of six months shall be rendered invalid."

6. In the principal Act, in Schedule I, -

Amendment of
Schedule I to
Bom. LX of
1958.

- (1) in article 5, after clause (g), the following clause shall be inserted, namely :-

"(ga) if relating to giving authority or power to a promoter or a developer, by whatever name called, for construction on, or development of, or sale or transfer (in any manner whatsoever) of, any immovable property:

One rupee for every hundred rupees or part thereof of the market value of the property which is the subject matter of such agreement:

Provided that the provisions of section 32A shall, *mutatis mutandis*, apply to such agreement, memorandum or records thereof or as they apply to an instrument under that section:

Provided further that if the

proper stamp duty is paid under clause (g) of article 45 on a power of attorney executed between the same parties in respect of the same property, then the stamp duty under this article shall be fifty rupees.”;

(2) in article 20, –

(i) in clause (a), for the words and figures “under article No. 56.”, the words and figures “under article No. 56, relating to immovable property” shall be substituted;

(ii) before clause (a), the following clause shall be inserted, namely :-

“(aa) CONVEYANCE, not being a transfer charged or exempted under article 56, relating to movable property.

Two rupees for every hundred rupees or part thereof of the amount of the consideration for such conveyance or, as the case may be, the market value of the property which is the subject matter of such conveyance whichever is greater.”;

(iii) after clause (c), the following clause shall be inserted, namely :-

“(cc) CONVEYANCE, (not being a transfer charged or exempted under article No. 56) if relating to both movable and immovable property.

The stamp duty as is payable under clause (a) and (aa), as the case may be.”;

(iv) in clause (d), for the words “amalgamation”, the words “reconstruction or amalgamation” shall be substituted;

(3) in article 27, –

(i) in clause (b), for item (ii), the following shall be substituted, namely :-

“(ii) if possession is not so given.

Subject to maximum of two lakhs rupees, two rupees for every hundred rupees or part thereof, for the amount of the further charge secured by such instrument.”;

(ii) clause (c) shall be deleted;

(4) in article 36, -

(i) for clause (b), the following clause shall be substituted, namely:-

"(b) when possession of the property or any part of the property comprised in such deed is not given or not agreed to be given.

Subject to maximum of rupees two lakhs, two rupees for every hundred rupees or part thereof for the amount secured by such deed.";

(ii) *Explanation II* and *Explanation III* shall be deleted;

(5) in article 45, -

(i) for clause (g), the following clause shall be substituted, namely:-

"(g) When given to a promoter or developer by whatever name called, for construction on, or development of, or sale or transfer (in any manner whatsoever) of, any immovable property.

One rupee for every hundred rupees or part thereof of the market value of the property which is the subject matter of such power of attorney.

Provided that the provisions of section 32A shall *mutatis mutandis* apply to such an instrument of attorney as they apply to a conveyance under that section.

Provided further that when proper stamp duty is paid under clause (ga) of article 5, on an agreement or records thereof or memorandum of an agreement executed between the same parties and in respect of same property, the duty chargeable under this clause shall be rupees one hundred.";

(ii) in *Explanation III*, for the word, bracket and letter "clause (g)", the word, bracket and letter "clause (f)" shall be substituted.

V. EX. 32-2

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Stamp Act, 1958 with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on 26th July, 2001.

An opportunity is also taken to amend section 48 by prescribing an extended time limit of six months for claiming relief under section 47 with a view to checking misuse of stamps and evasion of tax.

The Bill also seeks to insert new section 52C in the said Act which provides for invalidation of impressed stamps purchased before the commencement of this Act but which have not been used or presented for allowance within the prescribed time limit. Stamps which have not been so used or presented for allowance shall be rendered invalid. This section also invalidates unused stamps purchased on or after the date of commencement of this amending Act for which allowance has not been claimed within six months from the date of purchase.

VAJUBHAI VALA

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:—

Clause 3.— Sub-section (1) of section 32A proposed to be amended by this clause, empowers the State Government to prescribe by rules, the form of statement containing the particulars which shall be accompanied by the instrument that may be presented for registration.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 24th August, 2001.

VAJUBHAI VALA

Gandhinagar.

By order and in the name of the Governor of Gujarat,

dated the 24th August, 2001.

V. M. Kothare,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT SALES TAX (SECOND AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 33 OF 2001.

A BILL

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :--

1. (1) This Act may be called the Gujarat Sales Tax (Second Amendment) Act, 2001.

Short title
and
commence-
ment.

(2) It shall come into force on the 1st September, 2001.

Guj. 1 of
1970.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal Act"), in section 2, in clause (21), figures "32" shall be deleted.

Amendment
of section 2
of Guj. 1 of
1970.

3. In the principal Act, for section 30A, the following section shall be substituted, namely :--

Substitution
of section
30A of Guj.
1 of 1970.

Fresh
registration
of dealers.

"30A. (1) Every registered dealer who holds, on the date of commencement of the Gujarat Sales Tax (Second Amendment) Act, 2001 **Guj. of 2001.** (hereinafter referred to as "the specified date"), a valid certificate of registration (hereinafter referred to as "the existing certificate of registration") shall obtain a fresh certificate of registration as provided in this section in lieu of the existing certificate of registration.

(2) Every registered dealer required to obtain a fresh certificate of registration under sub-section (1) shall apply in the prescribed manner within such period from the specified date as may be prescribed, to the authority prescribed for the purpose of section 29.

(3) The prescribed authority, on receipt of the application under sub-section (2), shall, subject to the provisions of this Act, issue to the applicant a fresh certificate of registration in the prescribed form, which shall be effective from such date as may be prescribed and thereupon all the provisions of this Act in respect of a certificate of registration shall, so far as may be, apply to such fresh certificate of registration and references to a certificate of registration in any licence, recognition, permit or other document granted to the applicant shall be construed as references to the fresh certificate of registration issued to him.

(4) Where any registered dealer fails to make an application under sub-section (2), the Commissioner shall impose upon such dealer by way of penalty a sum of fifty rupees for every day after the expiry of the period prescribed under sub-section (2) for making such application during which such default continues."

Amendment
of section
30AA of Guj.
1 of 1970.

4. In the principal Act, in section 30AA,—

(1) after sub-section (2), the following sub-section shall be inserted, namely :—

"(2A) (a) Where a registered dealer does not pay the amount of tax as per his declarations or returns within the prescribed period for three or more consecutive periods, the Commissioner shall serve on such dealer in the prescribed manner, a notice requiring him on or before the date specified therein to pay the amount of tax as per the declarations or returns.

(b) Where a dealer fails to pay the amount of tax as required by the notice served upon him under clause (a) before the expiry of the date specified therein, the Commissioner shall, without prejudice to any penalty leviable on such dealer under this Act, cancel the certificate of registration of such dealer:

Provided that notwithstanding the cancellation of certificate of registration under this sub-section, the liability of the dealer shall continue in respect of any tax, penalty or interest for any period prior to the date of the order of the Commissioner canceling the certificate of registration.”

(2) in sub-section (3), after the words, brackets and figure “sub-section (2)”, the words, letters, brackets and figure “or clause (b) of sub-section (2A)” shall be inserted;

(3) after sub-section (3), the following sub-section shall be inserted, namely :-

“(4) The Commissioner shall, within ten days of cancellation of certificate of registration under this section, publish in the prescribed manner the details of such cancellation of registration.”

5. In the principal Act, for section 41AA, the following section shall be substituted, namely :-

Substitution
of section
41AA of Guj.
1 of 1970.

Special
provision for
deemed
assessment
for the period
prior to 1st
April, 2000.

“41AA. (1) Notwithstanding anything contained in sub-sections (2) and (3) of section 41, where any dealer has furnished the declarations or returns in respect of any specified period by such dates as prescribed therefor and paid the amount of tax due according to such declaration or return within the time prescribed by or under the Act –

(a) in the case of a dealer whose tax payable for the specified period to which the declaration or return relates does not exceed fifteen thousand rupees, the amount of tax due from the dealer in respect of such declaration or return shall, irrespective of whether a notice under sub-section (3) of section 41 is issued or not, be deemed to have been assessed, if the dealer at his option makes payment of one thousand rupees for each specified period in the Government treasury on or before the 30th November, 2001;

(b) in the case of a dealer whose tax payable for the specified period to which the declaration or return relates exceeds fifteen thousand rupees but does not exceed twenty-five thousand rupees, the amount of tax due from such dealer in respect of such declaration or return shall, irrespective of whether a notice under sub-section (3) of section 41 is issued or not, be deemed to have been assessed, if the dealer at his option makes payment of two thousand rupees for each specified period in the Government treasury on or before the 30th November, 2001.

(2) The payment made by a dealer under clause (a) or (b) of sub-section (1) shall be construed,—

(a) as if the dealer had furnished revised declaration or revised return under sub-section (3) of section 40, and

(b) as payment made under sub-section (3) of section 47 towards the liability of the dealer to pay tax under such revised declaration or revised return.

(3) Nothing in this section shall apply to a dealer,—

(a) whose books of accounts, registers, documents have been impounded or seized under section 59, or

(b) who has availed of tax exemption or tax deferment under any of the incentive schemes of Government of Gujarat.

Explanation.—For the purpose of this section, the words “specified period” means—

(a) in relation to a dealer who maintains regular books of accounts, any year or part of the year prior to 1st April, 2000 by reference to which the accounts are maintained by him; and

(b) in relation to any other dealer, any financial year or part of the financial year prior to the said date.”

Amendment
of section 47
of Guj. 1 of
1970.

6. In the principal Act, in section 47, in sub-section (4A), for the words “twenty-four per cent.” wherever they occur, the words “eighteen per cent.” shall be substituted.

Amendment
of section 54
of Guj. 1 of
1970.

7. In the principal Act, in section 54, in sub-section (1), for the words “fourteen per cent.” occurring at two places, the words “nine per cent.” shall be substituted.

Amendment
of Schedule I
to Guj. 1 of
1970.

8. In the principal Act, in Schedule I, the entry at serial No. 4 shall be deleted.

Amendment
of Schedule II
Part A to Guj.
1 of 1970.

9. In the principal Act, in Schedule II, in part A,—

(1) in the entries at serial No. 13 and 14, in columns 3 and 4, for the words “Two paise”, the words “Four paise” shall be substituted;

(2) in the entry at serial No. 28, in columns 3 and 4, for the words “Twelve paise”, the words “Eight paise” shall be substituted;

(3) in the entry at serial No. 40, in columns 3 and 4, for the words "Twenty paise", the words "Sixteen paise" shall be substituted;

(4) in the entry at serial No. 44, in clause (A), in columns 3 and 4, for the words "Six paise", the words "Four paise" shall be substituted;

(5) in the entry at serial No. 56, in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(6) after the entry at serial No. 71, the following entry shall be inserted, namely :-

1.	2.	3.	4.
"72.	Bamboo, whether whole or split and articles made of bamboo.	Eight paise in the rupee;	Eight paise in the rupee."

(7) in the entry at serial No. 94, in sub-entry (ii), in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(8) in the entry at serial No. 100, for sub-entry (ii), the following sub-entry shall be substituted, namely :-

1.	2.	3.	4.
"(ii)	pickles, sauces, jams, jellies, ketch-up, pulps and preserved fruits.	Twelve paise in the rupee.	Twelve paise in the rupee."

(9) in the entry at serial No. 101, in sub-entry (ii), in columns 3 and 4, for the words "Six paise", the words "Eight paise" shall be substituted;

(10) in the entry at serial No. 128, in sub-entry (6), in columns 3 and 4, for the words "Twelve paise", the words "Eight paise" shall be substituted;

(11) in the entry at serial No. 132, in column 2, for the words "with or without tobacco", the words "without tobacco" shall be substituted;

(12) after the entry at serial No. 150, the following entry shall be inserted, namely :-

1.	2.	3.	4.
"151A	Sim-cards.	Four paise in the rupee.	Four paise in the rupee."

(13) in the entry at serial No. 179, in columns 3 and 4, for the words "Twelve paise", the words "Eight paise" shall be substituted;

(14) in the entry at serial No. 187, in columns 3 and 4, for the words "Four paise", the words "Eight paise" shall be substituted;

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Sales Tax Act, 1969, with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 26th July, 2001.

VAJUBHAI VALA

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :—

Clause 3.— (i) Sub-section (2) of section 30A proposed to be inserted by this clause empowers the State Government to prescribe by rules, the manner in which and the period within which the dealer shall apply for obtaining a fresh certificate of registration;

(ii) sub-section (3) of the said section 30A empowers the State Government to prescribe by rules, the form in which the fresh certificate of registration shall be issued and it also empowers the State Government to prescribe by rules, the date from which the fresh certificate of registration shall be effective.

Clause 4.— (i) clause (a) of sub-section (2A) of section 30AA proposed to be inserted by this clause empowers the State Government to prescribe by rules, the manner in which the notice shall be served on the dealer by the Commissioner.

(ii) sub-section (4) of said section 30AA empowers the State Government to prescribe by rules, the manner in which the details of cancellation of certificate of registration shall be published by the Commissioner.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 24th August, 2001.

VAJUBHAI VALA.

Gandhinagar.

dated the 24th August, 2001.

By order and in the name of the Governor of Gujarat,

V. M. Kothare,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL (GUJARAT SECOND AMENDMENT) BILL, 2001.

GUJARAT BILL NO. 34 OF 2001.

A BILL

*further to amend the Bombay Rents, Hotel and Lodging
House Rates Control Act, 1947.*

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Second Amendment) Act, 2001. **Short title.**

**Bom. LVII
of 1947.**

2. In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, in section 4, after sub-section (1), the following sub-section shall be inserted, namely:— **Amend-
ment of
section 4 of
Bom. LVII
of 1947.**

"(1A) This Act shall not apply to —

(a) any premises constructed on or after the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Second Amendment) Act, 2001 (hereinafter referred to as "the amending Act");

Guj.
of
2001.

(b) any existing premises which is self-occupied by the owner or vacant on or after the commencement of the amending Act, and is let after such commencement;

for a period of ten years from the date of the commencement of the amending Act.

Explanation.—For the purposes of this section, "existing premises" means any premises which exists on the date of the commencement of the amending Act.

STATEMENT OF OBJECTS AND REASONS

In order to boost the house building activities and to encourage the landlord to let premises, it is considered necessary to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, so as to provide that the provisions of the Act shall not apply for a period of ten years from the date of the commencement of the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Second Amendment) Act, 2001 to the premises constructed after such commencement as well as to the existing premises which are self-occupied or vacant on or after such commencement, and are let after such commencement.

This Bill seeks to amend section 4 of the said Act to achieve the aforesaid objects.

24th AUGUST, 2001.

NAROTTAMBHAI PATEL.

By order and in the name of the Governor of Gujarat,

V. M. Kothare,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,

Dated the 27th August, 2001.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette

EXTRAORDINARY

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may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT APPROPRIATION BILL, 2001.

GUJARAT BILL NO. 35 OF 2001.

A BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2002.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Appropriation Act, 2001. Short title.
2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of seventeen thousand, five hundred twenty crores, seventy-eight lakhs, forty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2001-2002 in respect of the services and purposes specified in column 2 of the Schedule. Withdrawal of
Rs.1,75,20,78,47,000
from and out of the
Consolidated Fund
of the State of
Gujarat for the
financial year
2001-2002.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

SCHEDULE
(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
1	Agriculture and Co-operation Department	Revenue	2,87,75,000	—	2,87,75,000
2	Agriculture	Revenue	3,77,52,87,000	—	3,77,52,87,000
		Capital	(-) 23,75,000	—	(-) 23,75,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	28,83,77,000	—	28,83,77,000
		Capital	18,06,000	—	18,06,000
4	Animal Husbandry and Dairy Development	Revenue	30,84,16,000	—	30,84,16,000
		Capital	40,00,000	—	40,00,000
5	Co-operation	Revenue	21,98,10,000	—	21,98,10,000
		Capital	3,80,49,000	—	3,80,49,000
6	Other expenditure pertaining to Agriculture and Co-operation Department	Capital	1,64,89,000	—	1,64,89,000
7	Education Department	Revenue	1,61,55,000	—	1,61,55,000
8	Education	Revenue	24,04,91,01,000	59,75,96,000	24,64,66,97,000
		Capital	6,000	—	6,000
9	Other expenditure pertaining to Education Department	Revenue	3,09,80,000	—	3,09,80,000
		Capital	57,48,24,000	—	57,48,24,000
10	Energy and Petro-Chemicals Department	Revenue	68,62,000	—	68,62,000
11	Tax Collection Charges (Energy and Petro-Chemicals Department)	Revenue	3,59,40,000	—	3,59,40,000
12	Energy Projects	Revenue	8,56,60,57,000	1,16,67,000	8,57,77,24,000
		Capital	(-) 5,37,50,000	—	(-) 5,37,50,000
13	Other expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	2,50,000	—	2,50,000
		Capital	10,21,33,000	—	10,21,33,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
14	Finance Department	Revenue	3,74,79,000	—	3,74,79,000
		Capital	4,37,000	—	4,37,000
15	Tax Collection Charges (Finance Department)	Revenue	36,23,07,000	—	36,23,07,000
16	Treasury and Accounts Administration	Revenue	23,74,90,000	—	23,74,90,000
17	Pension and other Retirement Benefits	Revenue	7,61,72,25,000	5,83,000	7,61,78,08,000
18	Other expenditure pertaining to Finance Department	Revenue	1,86,94,92,000	—	1,86,94,92,000
		Capital	1,61,66,000	58,000	1,62,24,000
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue	—	22,26,88,16,000	22,26,88,16,000
		Capital	—	32,71,24,00,000	32,71,24,00,000
20	Food, Civil Supplies and Consumer Affairs Department	Revenue	3,74,91,000	—	3,74,91,000
21	Civil Supplies	Revenue	79,76,75,000	—	79,76,75,000
22	Food	Revenue	6,88,77,000	—	6,88,77,000
		Capital	34,23,58,000	—	34,23,58,000
23	Other expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	19,90,000	—	19,90,000
24	Forests and Environment Department	Revenue	1,11,56,000	—	1,11,56,000
25	Forests	Revenue	61,48,34,000	11,08,000	61,59,42,000
		Capital	69,64,89,000	—	69,64,89,000
26	Environment	Revenue	2,45,83,000	—	2,45,83,000
27	Other expenditure pertaining to Forests and Environment Department	Capital	93,15,000	—	93,15,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
28	Governor	Revenue —	1,24,27,000	1,24,27,000
29	Council of Ministers	Revenue 2,16,59,000	—	2,16,59,000
30	Elections	Revenue 31,50,49,000	—	31,50,49,000
31	Public Service Commission	Revenue 71,88,000	1,55,34,000	2,27,22,000
32	General Administration Department	Revenue 73,16,04,000	—	73,16,04,000
33	Economic Advice and Statistics	Revenue 6,26,96,000	—	6,26,96,000
34	Other expenditure pertaining to General Administration Department	Revenue(-) 12,09,96,18,000 Capital 18,29,71,03,000	3,27,000 (-) 12,09,92,91,000 — 18,29,71,03,000	
35	State Legislature	Revenue 5,19,26,000	5,51,000	5,24,77,000
36	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital 6,84,000	—	6,84,000
37	Health and Family Welfare Department	Revenue 2,45,68,000	—	2,45,68,000
38	Medical and Public Health	Revenue 4,31,47,66,000	—	4,31,47,66,000
39	Family Welfare	Revenue 84,58,20,000	—	84,58,20,000
40	Other expenditure pertaining to Health and Family Welfare Department	Revenue 75,53,47,000 Capital 2,60,18,000	— —	75,53,47,000 2,60,18,000
41	Home Department	Revenue 2,44,06,000	—	2,44,06,000
42	Police	Revenue 4,38,09,09,000	—	4,38,09,09,000
43	Jails	Revenue 14,48,65,000	—	14,48,65,000
44	Transport	Revenue 1,05,70,17,000 Capital 2,74,17,000	— —	1,05,70,17,000 2,74,17,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2		Rs.	Rs.	Rs.
45	State Excise	Revenue	3,09,50,000	—	3,09,50,000
46	Other expenditure pertaining to Home Department	Revenue	38,51,23,000	1,75,000	38,52,98,000
		Capital	1,00,86,50,000	—	1,00,86,50,000
47	Industries and Mines Department	Revenue	2,91,57,000	—	2,91,57,000
48	Stationery and Printing	Revenue	25,68,03,000	—	25,68,03,000
49	Industries	Revenue	4,00,07,51,000	—	4,00,07,51,000
		Capital	53,30,66,000	—	53,30,66,000
50	Mines and Minerals	Revenue	16,23,59,000	—	16,23,59,000
51	Tourism	Revenue	58,15,79,000	—	58,15,79,000
		Capital	10,00,000	—	10,00,000
52	Other expenditure pertaining to Industries and Mines Department	Revenue	2,44,50,000	—	2,44,50,000
		Capital	75,52,000	—	75,52,000
53	Information and Broadcasting Department	Revenue	42,60,000	—	42,60,000
54	Information and Publicity	Revenue	14,92,96,000	—	14,92,96,000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue	1,34,69,000	—	1,34,69,000
		Capital	23,57,000	—	23,57,000
56	Labour and Employment Department	Revenue	1,66,83,000	—	1,66,83,000
57	Labour and Employment	Revenue	64,59,46,000	10,000	64,59,56,000
58	Other expenditure pertaining to Labour and Employment Department	Capital	1,23,01,000	—	1,23,01,000
59	Legal Department	Revenue	1,30,01,000	—	1,30,01,000
60	Administration of Justice	Revenue	57,87,26,000	8,10,66,000	65,97,92,000
61	Other expenditure pertaining to Legal Department	Revenue	3,01,14,000	—	3,01,14,000
		Capital	1,01,92,000	—	1,01,92,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
62	Legislative and Parliamentary Affairs Department	Revenue	1,08,66,000	—	1,08,66,000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	3,86,000	—	3,86,000
64	Narmada, Water Resources and Water Supply Department	Revenue	3,09,17,000	—	3,09,17,000
65	Narmada Development Scheme	Capital	2,98,55,00,000	—	2,98,55,00,000
66	Irrigation and Soil Conservation	Revenue	10,05,19,22,000	26,07,000	10,05,45,29,000
		Capital	1,29,20,69,000	1,01,91,000	1,30,22,60,000
67	Water Supply	Revenue	72,43,49,000	—	72,43,49,000
		Capital	73,53,50,000	—	73,53,50,000
68	Other expenditure pertaining to Narmada, Water Resources and Water Supply Department	Revenue	29,000	1,45,07,000	1,45,36,000
		Capital	3,26,96,000	—	3,26,96,000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	1,77,33,000	—	1,77,33,000
70	Community Development	Revenue	1,05,28,10,000	—	1,05,28,10,000
71	Rural Housing and Rural Development	Revenue	1,90,75,19,000	93,50,57,000	2,84,25,76,000
		Capital	(-) 3,57,50,000	—	(-) 3,57,50,000
72	Compensation and Assignments	Revenue	52,66,75,000	—	52,66,75,000
73	Other expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	35,73,39,000	—	35,73,39,000
		Capital	12,71,00,000	—	12,71,00,000
74	Fisheries	Revenue	11,96,76,000	—	11,96,76,000
		Capital	4,68,57,000	—	4,68,57,000
75	Other Expenditure pertaining to Ports and Fisheries Department	Revenue	48,43,000	—	48,43,000
		Capital	16,71,000	—	16,71,000
76	Revenue Department	Revenue	6,47,60,000	—	6,47,60,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		Total
			Voted	Charged on the Consolidated Fund	
1	2		Rs.	Rs.	Rs.
77	Tax Collection Charges (Revenue Department)	Revenue	32,96,17,000	—	32,96,17,000
78	District Administration	Revenue	41,94,25,000	10,61,000	42,04,86,000
79	Relief on account of Natural Calamities	Revenue	1,79,00,00,000	—	1,79,00,00,000
80	Dangs District	Revenue	9,80,72,000	—	9,80,72,000
81	Compensation and Assignments	Revenue	13,90,29,000	18,66,000	14,08,95,000
		Capital	1,17,000	1,75,000	2,92,000
82	Other expenditure pertaining to Revenue Department	Revenue	63,54,000	—	63,54,000
		Capital	4,03,02,000	—	4,03,02,000
83	Roads and Building Department	Revenue	2,52,60,000	—	2,52,60,000
84	Non-Residential Buildings	Revenue	1,33,61,52,000	15,46,000	1,33,76,98,000
		Capital	40,41,55,000	—	40,41,55,000
85	Residential Buildings	Revenue	46,68,99,000	2,13,000	46,71,12,000
		Capital	3,34,79,000	—	3,34,79,000
86	Roads and Bridges	Revenue	3,13,54,34,000	58,06,000	3,14,12,40,000
		Capital	1,69,39,65,000	18,51,000	1,69,58,16,000
87	Gujarat Capital Construction Scheme	Revenue	4,84,78,000	—	4,84,78,000
		Capital	5,45,21,000	—	5,45,21,000
88	Other expenditure pertaining to Roads and Building Department	Revenue	8,34,68,000	54,74,000	8,89,42,000
		Capital	1,51,33,000	—	1,51,33,000
89	Social Justice and Empowerment Department	Revenue	1,33,52,000	—	1,33,52,000
90	Social Security and Welfare	Revenue	1,32,19,90,000	58,33,000	1,32,78,23,000
		Capital	80,22,000	—	80,22,000
91	Welfare of Scheduled Tribes	Revenue	31,58,73,000	—	31,58,73,000
		Capital	1,25,83,000	—	1,25,83,000
92	Other expenditure pertaining to Social Justice and Empowerment Department	Capital	45,80,000	—	45,80,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
93	Special Component Plan for Scheduled Castes	Revenue	1,17,78,37,000	—	1,17,78,37,000
		Capital	7,52,27,000	—	7,52,27,000
94	Tribal Area Sub-Plan	Revenue	3,59,27,73,000	2,71,000	3,59,30,44,000
		Capital	45,50,90,000	2,95,000	45,53,85,000
95	Sports, Youth and Cultural Activities Department	Revenue	56,05,000	—	56,05,000
96	Youth Services and Cultural Activities	Revenue	18,61,68,000	—	18,61,68,000
97	Other expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	20,31,000	—	20,31,000
98	Urban Development and Urban Housing Department	Revenue	98,02,000	—	98,02,000
99	Urban Housing	Revenue	(-) 2,51,33,000	28,62,32,000	26,10,99,000
100	Urban Development	Revenue	2,02,38,33,000	—	2,02,38,33,000
		Capital	(-) 2,43,83,000	—	(-) 2,43,83,000
101	Compensation, Assignments and Tax Collection Charges	Revenue	49,47,25,000	16,04,77,000	65,52,02,000
102	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue	50,83,000	—	50,83,000
		Capital	20,67,000	—	20,67,000
Total :		Revenue	88,43,50,22,000	24,41,08,10,000	1,12,84,58,32,000
		Capital	29,63,70,45,000	32,72,49,70,000	62,36,20,15,000
Grand Total :			1,18,07,20,67,000	57,13,57,80,000	1,75,20,78,47,000

STATEMENT OF OBJECTS AND REASONS

Article 204(1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State, of all moneys required to meet-

(a) the grants so made by the Assembly, and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of the State for the financial year ending on the 31st March, 2002.

The amounts are shown below :-

Rs.

(a) Revenue Expenditure ...	1,12,84,58,32,000
(b) Capital Expenditure	62,36,20,15,000
Total :	<u>1,75,20,78,47,000</u>

Dated the 27th August, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V.M. Kothare,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,

Dated the 27th August, 2001.



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TUESDAY, AUGUST 28, 2001 /BHADRA 6, 1923

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may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT TAX ON ENTRY OF SPECIFIED GOODS INTO LOCAL AREAS BILL, 2001.

GUJARAT BILL NO. 36 OF 2001.

A BILL

to provide for the levy of a tax in the State of Gujarat on the entry of certain goods into a local area of the State from any place outside the State, but not outside the territory of the Union of India for consumption, use or sale therein and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001.

Short title,
extent and
commencement.

- (2) It extends to the whole of the State of Gujarat.

- (3) It shall come in to force on the 1st September, 2001.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Appellate Authority" means an Appellate Authority appointed under section 6;

(b) "Appellate Tribunal" means the Gujarat Sales Tax Tribunal constituted under section 28 of the Gujarat Sales Tax Act, 1969;

Guj. 1 of
1970.

(c) "Assessing Authority" means any officer appointed under section 5;

(d) "entry of specified goods into a local area" with all its grammatical variations and cognate expressions means entry of specified goods into a local area from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein;

(e) "importer" means a person who brings any of the specified goods into a local area from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein;

(f) "local area" means,—

(i) a city within the meaning of the Bombay Provincial Municipal Corporations Act, 1949;

Bom. LIX of
1949.

(ii) a municipal borough, transitional area, small urban area or a notified area within the meaning of the Gujarat Municipalities Act, 1963;

Guj. 34 of
1964.

(iii) a village, within the meaning of the Gujarat Panchyats Act, 1993;

Guj. 18 of
1993.

(iv) a cantonment within the meaning of the Cantonment Act, 1924;

II of 1924.

(g) "person" includes any company or association or body of individuals, whether incorporated or not, a society, a club or an institution and also a Hindu Undivided Family, a firm, a local authority, the Central Government or any State Government;

(h) "prescribed" means prescribed by rules;

(i) "purchase value" means the value of the specified goods as ascertained from the original invoice and includes insurance, excise, duties, counter-vailing duties, sales tax, transport fee, octroi, freight charges and all other charges incidentally levied on the purchase of the specified goods and in the case of the specified goods mentioned at serial number 1 of the Schedule also the value of accessories fitted therein.

Provided that where purchase value of the specified goods is not ascertainable on account of non-availability or non-production of the original invoice, or when the invoice produced is proved to be false, or if the specified goods are acquired or obtained otherwise than by way of purchase, then the purchase value shall be the value or price at which the specified goods of the like kind or quality are sold or are capable of being sold, in open market in the local area;

(j) "rules" means rules made under this Act;

(k) "specified goods" means goods specified in column 2 of the Schedule;

(l) "State" means the State of Gujarat;

(m) "tax" means the tax payable under this Act.

CHAPTER II

INCIDENCE AND LEVY OF TAX

3. (1) Subject to the other provisions of this Act, on and from the 1st day of September, 2001, there shall be levied and collected on the entry of specified goods into a local area, a tax on the purchase value thereof at such rates as may be fixed by the State Government by notification in the *Official Gazette*, but not exceeding the maximum rates specified in column 4 of the Schedule; and different rates may be fixed for different specified goods.

Incidence of tax.

(2) The tax shall be payable and paid by an importer in such manner and within such time as may be prescribed.

(3) The tax shall be in addition to the tax levied and collected as octroi by a municipal corporation of a city constituted under the Bombay Provincial Municipal Corporations Act, 1949 or any other local authority, as the case may be, within its local area.

Bom. LIX of 1949.

4. (1) The amount of tax leviable under this Act shall, subject to such conditions as may be prescribed, be reduced to the extent of the amount of tax paid, if any, under the law relating to Sales Tax as may be in force in any other State or Union Territory by an importer who had purchased the specified goods in that State.

Reduction in tax liability.

(2) The amount of tax leviable under this Act shall, subject to such conditions as may be prescribed, be reduced to the extent of the amount of tax paid, if any, under the Central Sales Tax Act, 1956 on the purchase of the specified goods in the course of inter-State trade or commerce.

74 of 1956.

(3) Where an importer of specified goods liable to pay tax under this Act, being a dealer in the specified goods, becomes liable to pay tax under the Gujarat Sales Tax Act, 1969 or the Bombay Sales of Motor Spirit Taxation Act, 1958 by virtue of the sale of such specified goods, then his liability under the Gujarat Sales Tax Act, 1969 or the Bombay Sales of Motor Spirit Taxation Act, 1958 shall be reduced to the extent of tax paid under this Act.

Guj. 1 of 1970.

Bom. LXVI of 1958.

CHAPTER III

TAX AUTHORITIES

5. The State Government may, by notification in the *Official Gazette*, appoint such officers to be the Assessing Authorities for the purpose of this Act and may assign to them such local area or areas as may be specified in the notification.

Assessing Authorities.

6. The State Government may, by notification in the *Official Gazette*, appoint such officers to be the Appellate Authorities for the purpose of this Act and may assign to them such local area or areas as may be specified in the notification.

Appellate Authorities.

CHAPTER IV

RETURNS, ASSESSMENTS, PAYMENTS, RECOVERY
AND REFUND OF TAX

Returns.

7. (1) Every person liable to pay tax under this Act shall furnish returns in such form, for such period, by such dates, and to such authority as may be prescribed.

(2) If any person liable to pay tax under this Act, having furnished return under sub-section (1) discovers any omission or incorrect statement therein, he may furnish a revised return before the expiry of three months from the last date prescribed for furnishing the original return.

Assessment.

8. (1) The amount of tax due from a person liable to pay tax under this Act shall be assessed separately for such period as may be prescribed.

(2) If the Assessing Authority is satisfied that the return furnished by a person liable to pay tax under this Act is correct and complete, he shall assess the amount of tax due from the person on the basis of such return.

(3) If the Assessing Authority is not satisfied that the return furnished by a person liable to pay tax under this Act is correct and complete, and the Assessing Authority thinks it necessary to require the presence of the person or the production of further evidence, the Assessing Authority shall serve on the person in the prescribed manner a notice requiring him on a date and at a place specified therein, either to attend and produce or cause to be produced all evidence on which the person relies in support of his return, or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Assessing Authority shall, after considering all the evidence which may be produced, assess the amount of tax due from the person.

(4) If a person fails to comply with the requirements of any notice issued under sub-section (3), the Assessing Authority shall determine the purchase value of the specified goods under the proviso to clause (i) of section 2 and assess to the best of his judgement, the amount of tax due from him.

(5) No order of assessment under sub-section (3) or (4) shall be made after the expiry of three years from the last date prescribed for furnishing of returns of the particular period. If for any reason, such order is not made within the period aforesaid, then the return so furnished shall be deemed to have been accepted as correct and complete for assessing the tax due from such person.

Reassessment.

9. If, after a person liable to pay tax under this Act has been assessed under section 8 for any period, the Assessing Authority has reason to believe that any purchase value or part thereof has, in respect of that period, escaped assessment, or has been under assessed or assessed at a lower rate, then the Assessing Authority may, within five years from the date of the order of assessment of the particular period, after giving the person a reasonable opportunity of being heard, reassess, to the best of his judgement, the tax due from him.

10. (1) The tax shall be paid in the manner hereinafter provided.

Payment of
tax.

(2) A person liable to pay the tax, shall, before furnishing return as required by sub-section (1) of section 7, first pay into the Government treasury in the prescribed manner, the whole of the amount of tax due from him according to such return.

(3) If a person liable to pay the tax furnishes a revised return in accordance with sub-section (2) of section 7, and if such revised return shows that the amount of tax is larger than the amount of tax already paid or payable, he shall first pay into the Government treasury in the prescribed manner the additional amount of tax according to such revised return.

(4) The amount of—

(i) tax due where return has been furnished without full payment thereof, or

(ii) difference in the tax assessed under section 8 or reassessed under section 9 for any period and the sum already paid by the person in respect of such period, and

(iii) penalty (if any) levied under section 17.

shall be paid by the person into the Government treasury by such date as may be specified in the notice issued by the Assessing Authority for this purpose, being a date not earlier than thirty days from the date of service of the notice.

(5) Any tax or penalty which remains unpaid after the date specified in the notice for payment, shall be recoverable as an arrear of land revenue, and for that purpose all the Assessing Authorities shall have and exercise all the powers of a Collector under the provisions of the Bombay Land Revenue Code, 1879.

Bom. V of
1879.

11. The Assessing Authority shall, on an application made in such form and within such period as may be prescribed, refund to a person the amount of tax and penalty, if any, paid by such person in excess of the amount due from him. The refund may be either by cash payment, or at the option of such person, by deduction of such excess from the amount of tax and penalty, if any due from such person in respect of any other period.

Refund of tax.

Provided that the Assessing Authority shall first apply such excess towards the recovery of any amount due in respect of which a notice under sub-section (4) of section 10 has been issued, and shall then refund the balance, if any, in such manner as may be prescribed.

12. (1) No tax shall be levied and collected in respect of motor vehicles mentioned at serial number 1 in the Schedule if such motor vehicles are registered in any other State or Union Territory of India under the Motor Vehicles Act, 1988 for a period exceeding fifteen months before their entry into a local area of the State.

Exemptions.

59 of 1988.

V. 84.30-2

(2) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in public interest, by notification in the *Official Gazette*, exempt any class of importers from payment of the whole or any part of the tax payable under this Act.

CHAPTER V

APPEAL

Appeal.

13. (1) An appeal from every original order under this Act or the rules made thereunder shall lie to the Appellate Authority appointed under section 6.

(2) In the case of an order passed in appeal by the Appellate Authority, a second appeal shall lie to the Appellate Tribunal.

(3) No appeal shall be entertained by the Appellate Authority or the Appellate Tribunal unless it is filed within thirty days from the date of receipt of the order, appealed against by the assessee and unless the entire amount of tax and penalty, if any, has been credited by the assessee in the Government treasury :

Provided that an Appellate Authority or the Appellate Tribunal may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order—

(a) without payment of tax with penalty (if any) or, as the case may be, of the penalty, or

(b) on proof of payment of such smaller sum as it may consider reasonable, or

(c) on the appellant furnishing in prescribed manner, security for such amount as the Appellate Authority or as the case may be, the Appellate Tribunal may direct.

(4) Subject to such rules of procedure as may be prescribed, every Appellate Authority or as the case may be, the Appellate Tribunal shall have the following powers, namely :—

(a) in an appeal against an order of assessment, it may confirm, reduce, enhance or annul the assessment; or it may set aside the assessment and refer the case back to the Assessing Authority for making a fresh assessment in accordance with the direction given by it and, after making such further inquiry as may be necessary, the Assessing Authority shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment; and

(b) in any other case, the Appellate Authority or the Appellate Tribunal, as the case may be, may pass such orders on appeal as it deems just and proper.

36 of 1963

14. In computing the period laid down under section 13, the provisions of sections 4 and 12 of the Limitation Act, 1963 shall, so far as may be, apply.

Application of sections 4 and 12 of Limitation Act.

15. An Appellate Authority and the Appellate Tribunal may admit any appeal under section 13 after the period of limitation laid down in the said section, if the appellant satisfies the Appellate Authority or the Appellate Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal within such period.

Extension of period of limitation in certain cases.

16. Where, any person, after the tax has become due from him under this Act, creates a charge on, or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever of any of his property in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the person under this Act.

Transfer to defraud revenue void.

Provided that such charge or transfer shall not be void if made for valuable consideration and without notice of any proceeding under this Act.

CHAPTER VI

PENALTY

17. (1) If any person liable to pay tax under this Act fails to comply with any of the provisions of this Act, then the Assessing Authority may, after giving such person a reasonable opportunity of being heard, by order in writing, impose on him, in addition to any tax payable, a sum by way of penalty not exceeding twice the amount of tax.

Penalty.

(2) If the person does not, without reasonable cause, pay the tax within the time, he is required by or under the provisions of this Act, to pay it, the Assessing Authority may, after giving such person a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty, in addition to the amount of tax and penalty under sub-section (1), a sum of equal to eighteen per cent. per annum for the period during the time the person continues to make default in the payment of tax.

(3) If any person commits breach of any rule punishable with penalty, the Assessing Authority may, after giving such person a reasonable opportunity of being heard, by order in writing impose upon him a sum by way of penalty not exceeding the sum of penalty specified in the rule.

CHAPTER VII

MISCELLANEOUS

18. All officers and servants appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Officers and servants to be public servant.

Protection of
action taken
in good faith.

19. No suit, prosecution or other legal proceedings shall lie against the Government, or any public servant for anything which is in good faith done or purported to be done under this Act.

Power to
make rules

20. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act:

Provided that if the State Government is satisfied that the circumstances exist which render it necessary for it to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(b) all matters expressly required or allowed by this Act to be prescribed;

(c) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act;

(d) any other matter including levy of fees for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the purposes of this Act;

(e) the procedure for any other matters (including fees) incidental to the disposal of appeal, and the value of court-fee stamp which a memorandum of appeal should bear;

(f) the person who may appear or attend before any authority in connection with any proceedings under the Act, including, his qualifications, the conditions subject to which the person shall be entitled to appear and attend and the form of authorisation authorising such person to attend.

(3) In making any rules under this section, the State Government may direct that the breach thereof shall be punishable with penalty not exceeding two thousand rupees and when the breach is a continuing one, with a daily penalty not exceeding one hundred rupees during the continuance of the breach.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

SCHEDULE

(See section 2(k) and section 3 (1))

PART I

Sr. No.	Specified goods	Entry in Schedule II, Part A of the Gujarat Sales Tax Act, 1969.	Maximum rate of tax
1	2	3	4
1.	Motor Vehicles including Motor cars, motor taxi-cabs, motoettes, motor omnibuses, motor vans, motor lorries.	128(1)	Twelve per cent.
	Motor cycles, motorcycle combinations, motor scooters, mopeds.	128(2)	Twelve per cent.
	Chassis of motor vehicles	128(4)	Twelve per cent.
	Body which is built on chassis of motor vehicles.	128(5)	Twelve per cent.
2.	Cement	80	Fifteen per cent.
3.	Marbles or granite (raw or polished)	124	Twelve per cent.
4.	Kota stones	163(1)	Six per cent.
5.	Naphtha	40	Sixteen per cent.
6.	Light Diesel Oil	34	Eight per cent.

PART II

The Bombay Sales of Motor Spirit Taxation Act, 1958.

Sr. No.	Specified goods	—	Maximum rate of tax
1	2	3	4
7.	High Speed Diesel Oil.	—	Eighteen per cent. and Additional tax at the rate of Twenty per cent of the amount of tax.

Explanation.—For the purposes of this Schedule, —Guj. 1 of
1970.Bom. LXVI
of 1958.

- (1) Where sales of any of the specified goods at Sr. No. 1 to 6 of the Schedule is, by notification under sub-section (2) of section 49 of the Gujarat Sales Tax Act, 1969 exempt from whole or any part of the tax payable under that Act, the maximum rate of tax for such goods shall be reduced by such exemption.
- (2) Where sales of the specified goods at Sr. No. 7 of the Schedule is, by notification under section 35 of the Bombay Sales of Motor Spirit Taxation Act, 1958, exempt from whole or any part of the tax payable under that Act, the maximum rate of tax for such goods shall be reduced by such exemption.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to introduce the entry tax on the specified goods with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 26th July, 2001.

During the recent past, it has been observed that due to the difference in the rate of sales tax between the State of Gujarat and neighbouring States, diversion of trade has taken place and in some cases sales tax payments are avoided or evaded by various methods. This results in the loss of sales tax revenue legitimately due to the State of Gujarat. With a view to compensating such loss of sales tax revenue, it is considered necessary to levy a tax on entry of certain specified goods purchased outside the State and brought into the local areas of the State of Gujarat for use, consumption or sale therein.

The following notes on clauses explain the important provisions of the Bill :-

Clause 3 .— This clause deals with the incidence of tax leviable on the entry of the specified goods into a local area for use, consumption or sales therein which shall not exceed the maximum rates specified in column 4 of the Schedule. It also provides that rates of such tax may be fixed by the Government by a notification in the *Official Gazette*.

Clause 4 .— This clause provides for reduction in the tax liability to the extent of the tax paid.

Clauses 5 and 6 .— These clauses respectively provide for the appointment of Assessing Authorities and Appellate Authorities for the purpose of this Act.

Clauses 7 and 8 .— These clauses respectively provide for furnishing of returns and assessment of tax on the basis of returns.

Clause 9 .— This clause provides for reassessment of tax.

Clause 10 .— This clause provides for the manner in which tax is to be paid.

Clause 11 .— This clause provides for the refund of tax.

Clause 12 .— This clause provides for exemption of any specified class of importers from the payment of the whole or any part of the tax payable under this Act.

Clause 13 .— This clause provides for appeals.

Clauses 14 and 15 .— These clauses respectively provide for applicability of sections 4 and 12 of the Limitation Act, 1963 in computing the period of limitation and empower the authority to condone the delay in not preferring appeal within prescribed time.

Clause 16.— This clause provides for declaring void transfer of any property or creation of a charge on such property by the owner made during pendency of tax proceedings with the intention of defrauding the Government revenue.

Clause 17.— This clause provides for penalty for the failure to comply with any of the provisions of this Act.

Clause 20.— This clause empowers the State Government to make rules generally for carrying out the purposes of this Act and particularly for the matters specified in sub-clause (2) of this clause.

VAJUBHAI VALA

FINANCIAL MEMORANDUM

Clauses 5 and 6 of the Bill empower the State Government to appoint Assessing Authorities and Appellate Authorities. It is proposed to entrust the work of assessment, collection of tax and appellate work to the officers working in the Sales Tax Department. The collection of tax and administration of the Act would be entrusted to the Sales Tax Department. Therefore, the provisions of the Bill, if enacted and brought into force, would not involve any expenditure from the Consolidated Fund of the State.

VAJUBHAI VALA

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects :-

Clause 3 .- (i) Sub-clause (1) of this clause empowers the State Government to fix, by notification in the *Official Gazette*, the rate of tax not exceeding the maximum rates mentioned for the specified goods in the Schedule;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which and the time within which the tax shall be payable and paid by an importer.

Clause 4 .- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules the conditions subject to which the amount of tax leviable under the Act shall be reduced to the extent of the amount of tax paid, if any, under the law relating to Sales Tax in force in any other State or Union Territory;

(ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the conditions subject to which the amount of tax leviable under the Act shall be reduced to the extent of the amount of tax paid, if any, under the Central Sales Tax Act, 1956 on the purchase of specified goods, in the course of inter-State trade or commerce.

Clause 5 .- This clause empowers the State Government to appoint, by notification in the *Official Gazette*, such officers as the Assessing Authorities and to assign to them such local areas as may be specified in the notification.

Clause 6 .- This clause empowers the State Government to appoint, by notification in the *Official Gazette*, such officers as Appellate Authorities and to assign to them such areas as may be specified in the notification.

Clause 7 .- This clause empowers the State Government to prescribe by rules, the form in which, the period for which, the dates by which and the authority to which, every person liable to pay tax under this Act, shall furnish returns.

Clause 8 .- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the period for which the amount of tax due from a person liable to pay tax under the Act, shall be assessed separately;

(ii) sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner in which the Assessing Authority shall serve a notice on a person requiring him to attend on a date and at a place specified therein and produce or cause to be produced all evidence on which the person relies in support of his return or produce such evidence as specified in the notice.

Clause 10 .- (i) Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which the whole amount of tax due from a person, according to his return, shall be first paid by him into a Government Treasury;

(ii) sub-clause (3) of this clause empowers the State Government to prescribe by rules the manner in which the additional amount of tax according to revised return shall be first paid by him into Government Treasury.

Clause 11 .- This clause empowers the State Government to prescribe by rules, the form in which and the period within which an application for refund of excess amount of tax and penalty may be made to the Assessing Authority.

The proviso to this clause empowers the State Government to prescribe by rules, the manner in which the balance amount shall be refunded.

Clause 12 .- This clause empowers the State Government to exempt, by notification in the *Official Gazette*, any class of importers from payment of the whole or any part of tax subject to such conditions that may be imposed.

Clause 13 .- (i) Paragraph (c) of the proviso to sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner in which the appellant shall furnish security for such amount as the Appellate Authority may direct;

(ii) sub-clause (4) of this clause empowers the State Government to prescribe the rules of procedure subject to which the Appellate Authority shall have the powers specified therein.

Clause 20 .- Sub-clause (1) of this clause empowers the State Government to make by notification in the *Official Gazette*, rules generally for carrying out the purposes of this Act.

The delegation of the legislative powers as aforesaid is necessary and is of a normal character.

dated the 28th August, 2001.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

V.M. Kothare,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,

Dated the 28th August, 2001.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



समयव जयते

The Gujarat Government Gazette EXTRAORDINARY

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THURSDAY, AUGUST 30, 2001 /BHADRA 8, 1923

Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published
in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker
given under the proviso to rule 127A of the Gujarat Legislative Assembly
Rules :—

THE GUJARAT PUBLIC LIBRARIES BILL, 2001.

GUJARAT BILL NO. 37 OF 2001.

A BILL

*to provide for the promotion and development of public libraries in the State
of Gujarat and for that purpose to constitute State Library Development
Council and for the matters connected therewith or incidental thereto.*

It is hereby enacted in the Fifty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Public Libraries Act, 2001.

Short title,
extent and
commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government
may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless the context otherwise requires, -

Definitions.

(a) "Book" includes,—

(i) every volume, part or division of a volume and pamphlet in
any language ;

- (ii) manuscript in any form;
- (iii) every sheet of music, map, graph, chart or plan separately printed or lithographed ;
- (iv) newspapers, periodicals, paintings, posters, photographs, photographic reproduction, gramophonic records, audio-video tapes, floppy, compact discs, slides, microfilms and film scripts for audio visual information and such other materials;
- (v) computer output in any form and computer programmes;
- (b) "Book deposit center" means a center where books are deposited and members of the public can borrow ;
- (c) "Book service center" means a center where members of the library can borrow books through a mobile library ;
- (d) "Council" means the Gujarat State Library Development Council constituted under section 3;
- (e) "Director" means the Director of Public Libraries ;
- (f) "District" means a revenue district ;
- (g) " Education Committee " means an Education Committee of a district panchayat constituted under clause (iii) of sub-section (1) of section 145 of the Gujarat Panchayats Act, 1993; Guj. 18 of 1993
- (h) "Extension service" means and includes the activities pertaining to preservation and promotion of cultural heritage and encouraging the intellectual, literary and scientific character of the community;
- (i) " Library " means and includes collection of books , book deposit center or book service center providing library service or extension service ;
- (j) "Library service" means and includes providing reading facilities, lending out Books to the members of the library and assisting the readers to procure book and relevant information ;
- (k) "Members of the library" means registered members of the library;
- (l) "Local Authority" means a municipal corporation, a municipality, a panchayat, including notified area and cantonment constituted under the relevant local authority law;
- (m) "Municipal School Board" means a Municipal School Board as defined in clause (ii) of sub-section (ii) of section 2 of the Bombay Primary Education Act, 1947; Bom. 61 of 1947
- (n) "Municipality" includes the person or committee appointed under clause (c) of sub-section (1) of section 264B of the Gujarat Municipalities Act, 1963 for any notified area; Guj. 34 of 1964
- (o) "prescribed" means prescribed by rules ;
- (p) "President" means the President of the Council ;
- (q) "Public library" means ;
 - (i) a library, within the public library system of the State.
 - (ii) a library recognised by the Director under section 20;

(iii) any other library which the State Government may, by notification in the *Official Gazette*, declare to be a public library for the purposes of this Act;

(r) "Public library system" means a set up of public libraries in the State with the State Central Library at the apex and village libraries at the bottom;

(s) "Public library association" means a public library association recognised under section 21;

(t) "Relevant local Authority law" means, —

Bom. LIX of
1949.

(i) in relation to a municipal corporation, the Bombay Provincial Municipal Corporations Act, 1949 ;

Guj. 34 of 1964.

(ii) in relation to a Municipality, the Gujarat Municipalities Act, 1963;

Guj. 18 of
1993.

(iii) in relation to a district panchayat, the Gujarat Panchayats Act, 1993 ;

2 of 1924.

(iv) in relation to a cantonment, the Cantonment Act, 1924,

(u) "rules" or "regulations" means the rules or regulations made under this Act ;

(v) "State" means the State of Gujarat ;

(w) "taluka" means the revenue taluka ;

(x) "year" means the financial year.

CHAPTER II

STATE LIBRARY DEVELOPMENT COUNCIL

3. (1) As soon as may be after the commencement of this Act, the State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, a Council to be called the Gujarat State Library Development Council with effect from such date as may be specified in the notification.

Constitution of
State Library
Development
Council.

(2) The Council shall consist of the following members, namely :-

(i) The Minister-in-charge of Libraries, Gujarat State, who shall be the *ex-officio* president of the council ;

(ii) The Secretary to the Government of Gujarat, in charge of Libraries;

(iii) Two members to be nominated by the Gujarat Legislative Assembly from amongst its members ;

(iv) Two members to be nominated by the State Government from amongst the Chairpersons of all the District Education Committees ;

(v) One member to be nominated by the State Government from amongst the Chairpersons of all Municipal School Boards;

(vi) One representative of public library associations to be nominated by the State Government;

(vii) Three representatives from public libraries run by voluntary agencies registered under the Societies Registration Act, 1860, or under the Bombay Public Trusts Act, 1950 or under

XXI of 1860.

Bom XXIX of
1950.

Gujarat Co-operative Societies Act, 1961, to be elected from amongst themselves in such manner as may be presented; Guj. X of 1962.

(viii) Two persons from amongst renowned educationists having atleast ten years experience in the field of higher education to be nominated by the State Government ;

(ix) Two persons to be nominated by the State Government, each one from amongst persons having special knowledge and experience in library services and library and information science respectively ;

(x) Officer-in-charge of the State Central Library ;

(xi) The Chairperson of Gujarat Sahitya Academy ;

(xii) The Chairperson of Gujarati Sahitya Parishad ;

(xiii) One representative to be nominated by the State Government from amongst the registered public trusts mainly carrying out the activities of the publication of books ;

(xiv) One person to be co-opted by the Council.

(xv) The Director of Public Libraries, who shall be the Secretary of the Council.

(3) The State Government shall appoint one of the members to be the Vice- President of the Council.

(4) The powers, duties and functions of the President of the Council shall be such as may be prescribed.

Head quarters
of the Council.

4. The Head quarters of the Council shall be at Gandhinagar or at such other place as the State Government may, by notification in the *Official Gazette*, specify.

Powers and
functions of
Council.

5. The powers and functions of the Council shall be as follows, namely :-

(i) to advise the State Government on a reference made to it or on its own motion, in regard to all matters connected with the administration of this Act and the rules ;

(ii) to approve the expenditure out of the State Library Development Fund in accordance with the rules;

(iii) to direct the measures to be taken for promotion of use of books and to cultivate the reading habits among the community ;

(iv) to consider the annual report on the working, administration and progress of public libraries prepared under section 24 and to make suggestions and recommendations thereon ;

(v) to review from time to time, based upon the reports and inspections made under sections 22 and 23 respectively, the working and administration of all public libraries and public library associations and to suggest such ways and means to remove difficulties in becoming more useful and effective instruments of public education and library service ;

(vi) to make recommendations to the State Government as regards the measures to be taken for the improvement of the administration of public libraries ;

(vii) to suggest the norms and standards of performance as criteria for eligibility for the purpose of grant-in-aid or other financial assistance to

public libraries and public library associations ;

(viii) to suggest the formula for fixing the quantum of grant-in-aid;

(ix) to advise the State Government with regard to the objects and purposes for financial assistance other than grant-in-aid and the terms and conditions to be fulfilled for such assistance ;

(x) to make suggestions and recommendations for annual development plan for libraries;

(xi) to organise and conduct library seminars, meetings and conferences;

(xii) to prepare consolidated programme in the sphere of library service in accordance with the guidelines issued by the State Government from time to time ;

(xiii) to suggest for organisation and promotion of efficient library service in the State;

(xiv) to suggest for raising finances and for promotion of library service ;

(xv) to prepare long term and short term plans for improving the library service in the State ;

(xvi) to exercise such powers, and to perform such functions, as are conferred on, or entrusted to it by or under this Act or the rules made thereunder.

6. (1) Every member of the Council shall hold office during the pleasure of the State Government. **Term of office of members.**

(2) When a member ceases to hold the post by virtue of which he was so nominated or elected, he shall cease to be a member of the Council.

7. Any vacancy arises in the office of a nominated or elected member of the Council on account of death, resignation or otherwise, the same shall be filled up, as soon as possible, by nomination or election, as the case may be. **Filling up of vacancy.**

8. (1) The Council shall meet on such dates, at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meeting (including the quorum of such meeting) as may be provided by regulations : **Meetings of Council.**

Provided that the Council shall meet atleast twice in a year but six months shall not intervene between two successive meetings.

(2) The President of the Council may, whenever he thinks fit call a meeting of the Council ; and shall, upon written request of not less than one-third of the total numbers of members of the Council, call a special meeting of the Council on a date not later than thirty days after the receipt of such request :

Provided that no special meeting shall be demanded within a period of two months from the date of last meeting of the Council.

(3) The President or in his absence, Vice-President or in absence of both, any member chosen by the members present from among themselves shall preside over a meeting of the Council :

Constitution of Committees.

9. The Council may constitute such committees consisting of such number of members for performing such functions, as may be provided by regulations.

Payment of allowances to members of Council.

10. For the performance of their duties under this Act, the members of the Council or its committee shall be paid such allowances, at such rates as may be prescribed.

CHAPTER III

DIRECTOR OF PUBLIC LIBRARIES

Director of Public Libraries.

11. For the purposes of this Act, the existing Director of Libraries shall be the Director of Public Libraries.

Functions of Director.

12. (1) Subject to superintendence, direction and control of the State Government, the Director shall be responsible for the administration of this Act,

(2) In particular and without prejudice to the generality of the provision contained in sub-section (1), the Director shall perform the following duties and functions, namely :-

- (a) supervise all matters relating to public libraries ;
- (b) promote the establishment and development of public libraries ;
- (c) be responsible for planning, maintenance, promotion and development of public libraries, organisation of public library system;
- (d) recognise any institution or service conducting the training courses in library service and library and information science, and organise programmes for training of the staff of public libraries and other persons ;
- (e) maintain a register of recognised libraries and publish names and addresses of such libraries ;
- (f) administer and maintain accounts of the State Library Development Fund and ensure its proper utilisation ;
- (g) arrange for collecting and preserving old and rare books, manuscripts and other documents of educative value in public libraries;
- (h) conduct inspection of and render advisory service to the public libraries and public library associations;
- (i) to implement recommendations of the Council as have been approved by the Government ;
- (j) administer the schemes and rules and regulations for grant-in-aid and other financial assistance to public libraries, public library associations and recognised training institutions and sanction and disburse such amount in accordance with the scheme, rules and guidelines made in this behalf, from time to time;

(k) prepare and submit report as required under section 24 ;

(l) exercise such other powers and perform such other functions and duties, as may be conferred or imposed on him by or under this Act and the rules.

CHAPTER IV

PUBLIC LIBRARY SYSTEM

13. Subject to such rules, the State Government may, by order, designate one or more library as State Central Library and establish District Library for a district and Taluka Library for a taluka.

Public
Libraries.

14. (1) The State Government may establish and maintain a District library at the head-quarter of District and Taluka library at the head quarter of the taluka or at such other place in the taluka .

Establishment
and
management of
the district and
Taluka
Libraries.

(2) Every such District Library and Taluka Library shall be managed, organised and developed by the Director.

15. (1) The Director shall constitute for each district library a District Library Advisory Committee consisting of the following members, namely :-

Constitution
of District
and Taluka
Library
Advisory
Committees.

(i) the Collector of the district, who shall be the *ex-officio* Chairman of the committee;

(ii) one representative of the public library association of the district;

(iii) one expert in library services or library and information science;

(iv) one Principal of a college in the district;

(v) one Principal or Head-master of a high-school or higher secondary school in the district;

(vi) one Head-master of a primary school in the district;

(vii) one representative of the public libraries run by voluntary agencies in the district;

(viii) one lady librarian in the district;

(ix) the Assistant Director of Public Libraries in-charge of the district;

(x) The Librarian of the district library, who shall act as the secretary of the Committee;

(2) The Director shall constitute for each taluka library a Taluka Library Advisory Committee consisting of the following members, namely:-

(i) the Mamlatdar of the Taluka concerned, who shall be the *ex-officio* Chairman of the committee;

(ii) one representative of the public library association of the district;

(iii) one expert in library services or library and information science;

(iv) one Principal of a college in the taluka, if any ;

(v) one Head master of high school in the taluka ;

(vi) one Head master of a primary school in the taluka ;

(vii) one lady librarian in the taluka, if any ;

(viii) one representative of the public libraries run by voluntary agencies in the taluka;

(ix) the librarian of the taluka library, who shall act as the secretary of the committee.

Functions of
Advisory
Committees.

16. The functions of the District Library Advisory Committees and the Taluka Library Advisory Committees shall be such as may be prescribed.

CHAPTER V

FINANCE FOR PUBLIC LIBRARIES

Budget for
public libraries.

17. (1) The Director shall prepare, every year, the annual budget proposal for the Directorate of Public Libraries for plan and non-plan expenditure and submit it to the State Government.

(2) The Director shall utilise the grant so sanctioned to defray the expenditure for the following purposes, namely :-

(a) to carry out the purposes of this Act and rules;

(b) to establish new public libraries in the State;

(c) maintenance and development of the public libraries in the State;

(d) payment of grant-in-aid and other financial assistance to the public libraries, public library associations and recognised institutions conducting training courses in library services and library and information science;

(e) such other purposes as may be prescribed.

State Library
Development
Fund.

18. (1) There shall be a fund to be called the State Library Development Fund for modernisation and development of public libraries in the State.

(2) The State Library Development Fund shall consist of —

(a) grant received from the State Government other than grant specified in sub-section (2) of section 17 ;

(b) any contributions or special grants from the Central Government for modernisation and development of public libraries;

(c) all money received by way of contributions or gifts made by the public or any other agency for modernisation and development of public libraries.

(3) The money in the State Library Development Fund shall be utilised by the Director in consultation with the Council to defray the expenditure for the following purposes, namely :-

(a) modernisation and development of public libraries in the State;

(b) payment of allowances to the members of the Council under section 10 ;

(c) such other purposes as may be prescribed .

19. All property movable and immovable held or acquired for the purpose of any public library established and maintained by the State shall vest in the State Government.

Vesting of property held for purpose of public libraries.

CHAPTER VI

RECOGNITION OF PUBLIC LIBRARIES AND PUBLIC LIBRARY ASSOCIATIONS.

XXI of 1860.
Bom. XXIX
of 1950.
Guj. X 1962.

20. The Director may, in accordance with the rules and subject to any general or special orders of the State Government made in this behalf, recognise any library run by the voluntary agencies registered under the Societies Registration Act, 1860 or under the Bombay Public Trusts Act, 1950 or under the Gujarat Co-operative Societies Act, 1961 or any library run by local authority, open for use to the public, as a public library for the purpose of payment of grant-in-aid or other financial assistance to it.

Recognition of public libraries.

XXI of 1860.
Bom. XXIX
of 1950.
Guj. X 1962.

21. With a view to providing an incentive to library activities in the State, the Director may, in accordance with the rules, recognise any public library association in the State, registered either under the Societies Registration Act, 1860 or the Bombay Public Trusts Act, 1950 or the Gujarat Co-operative Societies Act, 1961, for the purpose of payment of grant-in-aid or other financial assistance to it.

Recognition of public library association.

CHAPTER VII

REPORTS AND INSPECTION

22. Every person who is in charge of the management of a public library and every person who is in charge of public libraries association shall submit such reports and returns and furnish such information as the Director may, from time to time require, to the Director or any person authorised by him in this behalf.

Reports and returns.

23. The Director or an officer authorised by him in this behalf shall have powers to inspect public libraries and public libraries associations or any institution attached thereto or any institution conducting the training courses in library service and library and information science receiving financial assistance, for the purpose of satisfying himself that the provision of this Act and the rules made thereunder are carried out.

Inspection of Public Libraries and Public Library Associations.

24. Within six months from the end of every year, the Director shall prepare an annual report, on the working and administration of and the progress made by public libraries and public libraries associations in that year together with such information and particulars as may be prescribed and submit the same to the State Government.

Submission of Annual report.

CHAPTER VIII

MISCELLANEOUS

Member of Council to be public servant. 25. All the members of the Council while acting or purporting to act in pursuance of the provisions of this Act or any rules and regulations made thereunder, be deemed to be public servants within the meaning of section 21 XLV of 1860. of the Indian Penal Code.

Protection of action taken in good faith. 26. No suit, prosecution or other legal proceeding shall lie against the Council or any member and officer or servant for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules and regulations made thereunder.

Acts and proceedings of Council presumed to be valid. 27. No act or proceeding of the Council or of any of its committees shall be invalid merely by reason of -
 (a) any vacancy therein or any defect in constitution thereof, or
 (b) any irregularity in its procedure not affecting the merits of the case.

Power to make rules. 28. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to provide for all or any of the following matters, namely :-

(a) manner for electing representatives from public libraries under clause (vii) of sub-section (2) of section 3;

(b) the powers, duties and function to be performed by the President under sub-section (4) of section 3;

(c) the expenditure out of the State Library Development Fund to be approved under clause (ii) of section 5;

(d) such other powers and functions which may be exercised and performed by the Council under clause (xvi) of section 5;

(e) the allowances payable to members of the Council and its committee and the rates at which they shall be payable under section 10;

(f) other powers, functions and duties to be exercised and performed by the Director under clause (l) of sub-section (2) of section 12;

(g) subject to which the State Government may designate Library as State Central Library under section 13;

(h) the functions to be performed by the District Library Advisory Committee and the Taluka Library Advisory Committee under section 16;

(i) other purposes for which the sanctioned grant may be utilised under clause (e) of sub-section (2) of section 17;

(j) other purposes for which State Library Development Fund may be utilised under clause (c) of sub-section (3) of section 18;

(k) rules for recognising public libraries under section 20;

(l) rules for recognising public library associations under section 21;

(m) the information and particulars to be included in the annual report under section 24;

(n) any other matter which is to be or may be prescribed under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

29. (1) The Council may make regulations not inconsistent with the provisions of this Act and the rules made thereunder enabling it to discharge its function under this Act . **Power to make regulations.**

(2) In particular and without prejudice to the foregoing powers, such regulations may provide for all or any of the following matters namely:-

(a) the time, date and place at which the Council shall meet and the rules of procedure the Council shall observe in regard to transaction of its business at its meeting under sub-section (1) of section 8 ;

(b) other committees which council may constitute, the number of members which the committee may consist of and functions which may be performed by such committee under section 9.

STATEMENT OF OBJECTS AND REASONS

In view of the important role that public libraries are required to play as effective instrument of public education, it is considered necessary to enact a law for the establishment, maintenance, organisation, development and modernisation of public libraries in different areas of the State run by the State Government, local authorities and other registered voluntary agencies and to regulate various matters relating to public libraries so as to make them serve better the educational interest and information needs of the public.

The following notes on clauses explain, in brief the important provisions of this Bill :-

Clause 2.-This clause defines certain terms used in the Bill.

Clause 3.-This clause empowers the State Government to constitute by notification in the Official Gazette, a Council to be called the Gujarat State Library Development Council.

Clause 5.- This clause provides for the powers and functions of the Council.

Clause 6.- This clause provides for term of office of members.

Clause 7.- This clause provides for filling up of vacancies of members in case of death, resignation or otherwise.

Clause 8.- This clause provides for meeting of the Council. It also provides for special meeting to be called by the President and also provides for presiding over the meeting of the Council.

Clause 11.-This clause provides that the existing Director of Libraries shall be the Director of Public Libraries for the purposes of this Act.

Clause 12.-This clause provides the various functions and duties to be performed by the Director.

Clauses 13 and 14.- These clauses provide for State Central Library and establishment and maintenance of District library for a district and taluka library for a taluka.

Clauses 15 and 16.- These clauses provide for constitution and functions of District Library Advisory Committee for a District and Taluka Library Advisory Committee for a taluka and its functions.

Clause 17.- This clause provides that Director shall prepare annual budget and to be submitted to the State Government. The grant so sanctioned by the Government shall be expended for the purposes mentioned therein.

Clause 18.- This clause provides for State Library Development Fund for the purpose of modernisation and development of public libraries in the State and the utilisation of the functions for the purposes mentioned therein.

Clauses 20 and 21.- These clauses provide for recognition of public libraries as well as public library association by the Director for the purpose of payment of grant in aid and other financial assistance.

Clauses 22 and 23.- These clauses provide for submitting reports and return and such other information to the Director and also empower the Director to inspect the public libraries, public library associations or other institutions.

Clause 24.- This clause provides that Director shall prepare annual report of the working and administration of public libraries to be submitted to the State Government.

Clause 25.- This clause provides for usual indemnity for acts done in good faith.

Clause 27.- This clause provides that no act or proceeding of the Council shall be invalid merely because of any vacancy in the Council or any defect in the constitution thereof or any irregularity in the procedure.

Clause 28.- This clause empowers the State Government to make rules for carrying out the purposes of the Act and particularly the matter specified in sub-clause (2) of this clause.

Clause 29.- This clause empowers the Council to make regulations for discharging its functions under this Act and particularly with regard to the matters specified in sub-clause (2) of this clause.

This Bill seeks to achieve the aforesaid objects.

MAHENDRA TRIVEDI

FINANCIAL MEMORANDUM

Clause 11 of this Bill provides for appointment of the Director of Public Libraries. The existing Director of Libraries would be the Director of Public Libraries and the officers and employees under him would continue to work as officers and employees under the Director of Public Libraries. Since the existing Director and officers and employees are to be appointed for the purposes of the Act, as such, the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

MAHENDRA TRIVEDI

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects:-

Clause 1.— Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.— Item (iii) of sub-clause (q) of this clause empowers the State Government to declare, by notification in the *Official Gazette*, any library to be a public library.

Clause 3.— (i) Sub-clause (1) of this clause empowers the State Government to constitute by notification in the *Official Gazette*, a council to be called Gujarat State Library Development Council with effect from such date as specified therein in the notification.

(ii) sub-clause (4) of this clause empowers the State Government to prescribe by rules, the powers, duties and functions of the President of the Council.

Clause 4.— This clause empowers the State Government to specify, by notification in the *Official Gazette*, any other place for the Head-quarter of the Council.

Clause 5.— (i) sub-clause (ii) of this clause empowers the State Government to prescribe by rules the expenditure out of State Library Development Fund to be approved.

(ii) Sub-clause (xvi) of this clause empowers the State Government to prescribe by rules, the powers and functions to be performed by the council.

Clause 8.— Sub-clause (1) of this clause empowers the council to prescribe by regulations, the date, time and places of the meeting and the rules of procedure to be observed in the meeting regarding the transaction of the business at the meeting.

Clause 9.— This clause empowers the Council to prescribe by regulations, the constitution of other committee, number of members and functions to be performed by such committee.

Clause 10.— This clause empowers the State Government to prescribe by rules, the salaries and the rates at which the member of the council shall be paid for performing their duties under the Act.

Clause 12.—(i) Sub-clause (j) of this clause empowers the State Government to prescribe by rules, subject to which the Director shall sanction the grant in aid and financial assistance to the public libraries, public libraries associations and recognised training institutions;

(ii) sub-clause (1) of this clause empowers the State Government to prescribe by rules, other functions and duties to be performed by the Director.

Clause 13.— This clause empowers the State Government to designate by order, one or more libraries as State Central Library.

Clause 16.— This clause empowers the State Government to prescribe by rules, the functions to be performed by the District and Taluka Library Advisory Committees.

Clause 17.— Item (e) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the other purposes for which the Director may utilise the sanctioned grant.

Clause 18.— Item (c) of sub-clause (3) of this clause empowers the State Government to prescribe by rules, the other purposes for which the money in the State Library Development Fund can be utilised.

Clause 20.— This clause empowers the State Government to prescribe by rules, subject to which the Director may recognise any library as a public library.

Clause 21.— This clause empowers the State Government to prescribe by rules, to recognise public library association for the purpose of payment in grant-in-aid or other financial assistance.

Clause 24.— This clause empowers the State Government to prescribe by rules, the information and particulars to be incorporated in their annual report to be prepared by the Director.

Clause 28.— This clause empowers the State Government to make rules, by notification in the *Official Gazette*, for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2).

Clause 29.— This clause empowers the council to make regulations for discharging its functions under the Act and particularly for all or any of the matters specified in sub-clause (2).

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 29th August, 2001.

MAHENDRA TRIVEDI

By order and in the name of the Governor of Gujarat,

V. M. KOTHARE,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,

Dated the 30th August, 2001.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.